[President.]

Rule 38 says :—

"On the day on which the motion is set down in the list of business which shall, unless the President otherwise directs, be not less than three days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration."

Then comes Rule 39 :—

"On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary.....".

That means that when the discussion takes place with regard to the motion for consideration a certain amount of general discussion must take place. The words "on the day on which the motion is made or on any subsequent day to which the discussion is postponed," refer to the motion for consideration. In other words, when the motion for consideration is made and during the consideration of that motion the principles of the Bill must be discussed and the details must not be discussed. When that stage has been passed the Bill shall be taken into consideration. It is stated that

"if the motion that the Bill be taken into consideration is carried the Bill shall be taken into consideration and the provisions of the Standing Orders regarding consideration of amendments to Bills and the subsequent procedure in regard to the passing of Bills shall apply".

Taking all these rules together, I think, the point of order taken by the honourable member is not correct. We are entitled to deal with the clauses.

The question that Clauses 1 to 41 do stand part of the Bill was then put to vote and carried and the Clauses were added to the Bill. The Preamble was put to vote and carried and added to the Bill.

Mr. Kayalam Paramesvaran Pillai : Sir, there are the Schedules.

President : The motion before the House is that the Schedules I to VI stand part of the Bill.

The motion was put to vote and carried and the Schedules I to VI were added to the Bill.

Ths Title was then put to vote and carried and added to the Bill.

Mr. Kayalam Paramesvaran Pillai : I move that the Bill be passed.

Mr. K. George : I second it.

The motion that the Bill be passed was put and carried.

The Bill was passed.

THE TRAVANCORE AGRICULTURISTS' RELIEF BILL.

President : We shall now go on with the Travancore Agriculturists' Relief Bill.

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Mr. Kayalam Paramesvaran Pillai: Sir, last evening I was trying to explain to the House that arbitration is not conciliation and that conciliation is not arbitration. The distinguishing feature of conciliation, which every honourable member must bear in mind in trying to solve the doubts that may arise in this Bill is that the parties before the Conciliation Board, the debtor on the one hand and the creditors on the other, are complete masters of the situation, until the conciliation agreement is signed by them. While in arbitration, once the arbitrator is appointed, he is complete master and the parties have to submit to his award however unwilling they may be. Further, no conciliation agreement can take effect without the consent of everyone. This point, that unless *every person* is agreeable to it no conciliation is possible, should always be borne in mind. If, out of, say, one hundred creditors, ninety-nine are prepared to agree to the Conciliation Board and if one would not, then the conciliation cannot be given effect to and becomes totally infructuous. This is the most distinguishing feature of our conciliation scheme which distinguishes it from conciliation provided elsewhere say, for instance, in Madras, the Punjab or the Central Provinces, I shall presently refer in detail to those provisions. But let me reiterate this point that no conciliation will ever come into any effect against any person unless he agrees to it.

Sir, much criticism has been based on a non-appreciation of this feature of conciliation. There was even a misnomer. The conciliation officer was assumed to make an award. The arbitrator's decision may be an award, but a conciliation officers's decision is strictly only a proposal that would never take effect unless agreed to by every one of the parties concerned. That is provided for in Clause 19.

I am sure I need not read that. If that is borne in mind much of the criticisms will be self answered and in fact it will be a master solvent for every doubt. Whenever any doubt or difficulty is felt, apply at once this solvent, this remembrance of the feature of conciliation, and the doubt or difficulty will at once vanish.

Mr. M. N. Paramesvaran Pillai: May I know whether a secured creditor will be given any preferential treatment?

Mr. Kayalam Paramesvaran Pillai: Yes, if he wants it.

Mr. M. N. Paramesvaran Pillai: May I know whether there is any provision for that?

Mr. Kayalam Paramesvaran Pillai: Yes, there is provision for what is much more than that.

Mr. M. N. Paramesvaran Pillai: May I know which provision is that?

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Mr. Kayalam Paramesvaran Pillai: I shall explain it. I was saying that no conciliation will take effect unless every one of the parties agrees to it. Every one of the secured creditors as well as the unsecured creditors as well as the debtor must all agree to the arrangement. Otherwise the arrangement will not be given effect to. If there are one debtor and say ten creditors and if nine of the creditors agree, and only one of the creditors keep aloof even then the agreement will fall through and will not be given effect to. Even that one creditor must agree. If he too agrees, where is the question of priority of anybody ?

Mr. M. N. Paramesvaran Pillai: Recognising the priority claim of the secured creditor will not the unsecured debtor back out from such agreement even from the very beginning ?

Mr. Kayalam Paramesvaran Pillai: I can very well appreciate such a criticism and I shall meet it. Let me at once say that such a criticism is a deserving criticism based on an understanding of the Bill. But now I am dealing with another criticism, a criticism born of ignorance. Upon that I am appealing to the House to bear in mind the distinguishing feature of conciliation, *viz.*, that no conciliation will have effect against any person without his consent. Not only should he agree but every one else also should agree. If any one of the secured creditors is not prepared to appear or if he disagrees there will be no conciliation. As I said, even if nine of the creditors agree and only one keeps aloof and there is an unsecured creditor, there will be no conciliation effected. If that be so, where is the apprehension of priority being affected ?

Mr. G. Narayana Aiyar: Is he to be penalised for that?

Mr Kayalam Paramesvaran Pillai: How does the priority question come in when no conciliation is effected ? It may be that the court may disallow costs or reduce interest. But whatever is decreed will have priority and what is not decreed cannot be recovered at all, not even as an unsecured creditor.

Mr. G. Narayana Aiyar: Is it not necessary to explain it in detail in the Bill without leaving it to the discretion of the Conciliation Officer ?

Mr. Kayalam Paramesvaran Pillai: It is in the Bill. It has only to be read. There is express provision to that effect. Clause 16 says :—

> "If the debtor and the creditor or the creditors appearing before the Board, agree to the conciliation proposed by the Board, it shall be reduced to writing in the form of an agreement and shall be signed by the debtor and the creditor, or creditors and shall also be signed or otherwise authenticated by the Board and so on".

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And Clause 17 says :—

> "If all the parties appearing before the Board do not agree to the conciliation proposed by the Board, the Board may for reasons to be recorded in writing reject the application for conciliation or may record a certificate setting forth the attempts made by the Board to bring the parties to agreement, the various methods of conciliation suggested to them, the attitude of each of the parties in regard to such methods——"

So then the Board can only record a certificate if all of the parties do not agree, and the Board is not *bound* to record a certificate.

Mr. G. Narayana Aiyar: Does not the secured creditor lose his security ?

Mr. Kayalam Paramesvaran Pillai: No. The worst that may happen if he does not agree to conciliation is that he might lose some interest and costs. It is not a question of his losing any security.

Mr. G. Narayana Aiyar: May I know whether there is such a provision in the Bill ?

Mr. Kayalam Paramesvaran Pillai: In effect there is, because we are making a special provision that no conciliation can take effect unless it is agreed to by *all* the parties. This provision has been put in our Bill more out of regard for the interest of the creditors and in order that no person's vested rights may be affected without his consent.

Mr. M. N. Paramesvaran Pillai: Sir, may I just point out that what the Law Member said is not entirely true ?

President: Probably the honourable member means "entirely accurate". To say "not true" is not parliamentary.

Mr. M. N. PARAMESVARAN PILLAI: "If in response to any such notice, any person, whether a debtor or creditor, does not, within the time specified in the notice or within such further time as the Board may grant, express to the Board his disagreement with the conciliation, he may if so ordered by the Board be deemed to have agreed to the conciliation and signed the agreement within the intent of sub-section (1) and the Board shall endorse or state in the agreement that it is deemed to have been signed by such person also."

May I know what the learned Law Member has to say with regard to that portion ?

Mr. Kayalam Paramesvaran Pillai: That means that the vested right of a person would not be affected without his consent or at least without his being given an opportunity to come and dissent. If on such opportunity being given, he remains silent, the silence is taken as consent. That is the principle.

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Mr. M. N. Paramesvaran Pillai : May I know whether even when he backs out of the conciliation proceedings an agreement can be passed by the Board binding on him ?

Mr. Kayalam Paramesvaran Pillai : No, it does not say that. What it says is that a notice should be given to him and if he refuses to comply with it and fails to go to the Board and express dissent, be will be deemed to have assented. It is open to him to go and say that he is not prepared to agree to the conciliation. Why does he not do it? And if he does not, is it wrong to presume that he has no objections?

Mr. M. N. Paramesvaran Pillai : In that case does not the provision impose some compulsion ?

Mr. Kayalam Paramesvaran Pillai : It is compulsion in the sense that we should respect the notice of the Board. I think that it is absolutely necessary that every body should at least show courtesy to the Board.

Mr. G. Narayana Aiyar : May I know how the debts of Government which are a charge upon the property should be respected or resorted to so long as there is no party to it ?

Mr. Kayalam Paramesvaran Pillai : That is a point that I will deal with later on. But now I am on another point namely that no creditor, whether secured or unsecured, would be affected unless he agrees to the conciliation.

Another criticism was, I believe, that made by Mr. Piravi-perumal Pillai that trade debts are included within the ambit of the Bill. These trade debts are included as agricultural debts only for the purpose of conciliation and not for any other purpose. This Bill provides relief to the debtors in various other methods. One is the reduction of interest. That would not apply to trade debts. I do not know whether Mr. Piraviperumal Pillai has realised that. Trade debts are brought into the debt conciliation scheme more for the interest of the trade creditor than to prejudice him. These trade debts having brought in for the purpose of conciliation only, the creditor will not be affected in any way unless the trader agrees to the conciliation. How then can he suffer ?

Mr. M. N. Paramesvaran Pillai : Where is the provision in the Bill for a man who is both an agriculturist and a trader?

Mr. Kayalam Paramesvaran Pillai : That is a different matter. Mr. Paramesvaran Pillai may ask me that question later on. Now I am dealing with trade debts.

Mr. G. Narayana Aiyar : May I know whether Clause 19 deals with traders also ?

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Mr. Kayalam Paramesvaran Pillai: Yes, because it is a part of the conciliation provisions. I was saying that these trade debts having been brought in only for the purpose of conciliation, the creditor will not be prejudiced. (*At this stage the President vacated the Chair and it was then occupied by Mr. V. S. Arumukham Pillai,* (*Thovala* cum *Agasteesvaram*) *one of the Panel of Chairmen.*) And it is so brought in the interest of the trade creditor and not with a view to prejudice him. If the trade debts also are not included, for purposes of conciliation, the trade creditor will not get a share when the assets of the debtor are appropriated by the conciliation agreement.

Mr. G. Narayana Aiyar: May I know whether the debts due to a trader are given any sort of preference over others ?

Mr. Kayalam Paramesvaran Pillai: No, nobody is given preference as such. The trade creditor gets an opportunity to go to the Board because trade debts go in for conciliation. It is open to him to go and say that he is not prepared to the conciliation agreement. In that case the whole conciliation falls to ground, not merely in regard to the trade debts but also in regard to all other debts. In other words, no adjustment of the debtor *could be* made behind the back of the trade creditor. Is not that to the advantage of the creditor ? If any arrangement is made behind his back he may be prejudiced. Then why the complaint from the trader that the debts due to him are brought in for conciliation ?

What I said about trade debts will apply equally to rent and *michavaram*. If such dues are not brought in for conciliation they are liable to be overlooked and excluded when the debtor's affairs are settled by conciliation.

Mr. M. N. Paramesvaran Pillai: It was stated by the Law Member that trade debts are brought in only for conciliation. May I know whether even if a trader is become jointly liable with the Karanavan he will get the benefit of the Regulation ?

Mr. Kayalam Paramesvaran Pillai: That is a different question. I do not propose to answer it now. Mr. Paramesvaran Pillai may ask that question later on. What I am now saying is that the criticism about trade debts being included for conciliation is founded on a misconception as to what conciliation is and that the same applies to the criticism about rent and *michavaram* also. It is really to the benefit of the creditor that these claims are included in the conciliation.

Mr. G. Narayana Aiyar: Is there any difference in the principle of distribution of debts of trade, rent, etc.?

Mr. Kayalam Paramesvaran Pillai: No.

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Mr. M. N. Paramesvaran Pillai: If all the parties do not agree the whole thing goes. Then why do you want a Conciliation Board ?

Mr. Kayalam Paramesvaran Pillai: I shall answer that question later on.

Another criticism, based again on misconception of what conciliation, is was that there is no statutory provision about the status of the Conciliation Officer. Now, the distinctive feature of our conciliation scheme is that every party before the Board must agree if there should be any effective conciliation. Where then is the necessity to have an officer with any special status? The conciliation takes effect because of the agreement. The Conciliation Officer never gives an *award* or a *judgment*. If it were so, some status may have to be fixed in the law itself in order to evoke confidence from the parties.

Mr. G. Narayana Aiyar: May I know whether there is any difference between the Madras Conciliation Boards and the Boards to be set up here ?

Mr. Kayalam Paramesvaran Pillai: I am coming to it presently. The status of the officer should be of special concern if he had to pass judgment which should *ipso facto* have force as a decree. No doubt the Conciliation Officer should be able to judge human nature and motives and he must also be able to lead the parties on and induce them to agree to a settlement. In short, he must be their friend, philosopher and guide. It is his special aptitude and his particular temperament to deal with men and things and his respectability and character that count in this. This does not depend upon the status of the Conciliation Officer. Status may be one consideration. But that is not the deciding factor.

Mr. M. N. Paramesvaran Pillai: Is it not most important ?

Mr. Kayalam Paramesvaran Pillai: I don't think that it is the *most* important factor. The most important thing is the character of the man and his personality so that he might extort confidence from the parties, and status has not much to do with this. If the Lord Chief Justice of England or the Lord Chancellor were to go over to Nemom and try to effect a conciliation between parties, of whom even Mr. M. N. Paramesvaran Pillai may be one, I don't think that Mr. M. N. Paramesvaran Pillai or the others will agree to the proposals of such a conciliation officer. Sir, what I have been saying is that the conciliation officer must be the friend, philosopher and guide of the parties rather than their judge. The parties must feel that here is a man whose advice I can safely

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follow and who will look to my interest and on whom I have put perfect confidence. What counts with the parties in this is not quite the status of the officer. That is the practical difficulty with Government, to choose a person of the proper type. As Mr. Ramakrishna Pillai said, it may, after all, be a leap in the dark. But let us aim well and let us have a determination to succeed.

Mr. S. Piraviperumal Pillai: What is the barometer with which Government will find out the temperament of a particular man?

Mr. Kayalam Paramesvaran Pillai: I believe the honourable member himself is the right type of a person to supply the barometer.

Mr. G. Narayana Aiyar asked what was the distinctive feature of our Conciliation Board compared with those elsewhere. I may tell him that the distinctive feature is that conciliation under this Bill can be effected only with the consent of *every* party before the Board without a single exception. Suppose 99 out of one hundred agree and one disagrees, there cannot be a conciliation under our scheme. The question may be asked why should there not be a conciliation binding on the 99 and the debtor? Well, we do not accept it. That is our scheme, but not so elsewhere. In other places, if a fixed proportion of the creditors agree there will be a conciliation as regards *them*, but not as regards the dissentients who will be ignored Such provisions are found in Madras, Central Provinces and the Punjab. In Madras the Act provides that if 50 per cent of the creditors agree there may be conciliation as regards them. The result is that the debtor's properties may happen to be divided amongst them only. Then what about the other creditors? They *may* suffer if the Conciliation Officer is an inefficient man or a fool or a dishonest man. So there we want officers of status and there should be provision for priority of secured debts. In the Central Provinces the provision is that if 40 per cent of the creditors agree there will be conciliation amongst them and the other 60 per cent can be ignored. In the Punjab even if one creditor agrees with the debtor, there may be conciliation as between them and all the rest may be ignored.

Mr. G. Narayana Aiyar: Does the provisions of the Madras and the Central Provinces Acts say that all the other creditors can be ignored?

Mr. Kayalam Paramesvaran Pillai: That is the effect; any how without their consent there *can be* conciliation. What the Madras provision says is this. It is Section 14 of the Madras Debt Conciliation Act, 1936;

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[Mr. Kayalam Parameswaran Pillai].

(1) "If the creditors to whom more than 50 per cent. of the total amount of the debtor's debt is owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to *such* creditors",

and so on, and detailed provisions are given. But here the provision is that everybody without exception must agree. In such an arrangement there is assurance that none will be prejudiced in any manner, even by any folly or error of judgment of the Conciliation Officer. With this in mind consider the point of the trade debts and rent *michavaram* being brought into conciliation in our scheme and compare the provisions obtained in the Madras Act and the Punjab and the Central Provinces Acts adverted to already. There is no scope for any fraud or foul play or for any party being hustled into conciliation because the majority have agreed to conciliation and there is absolute assurance of every claim being provided for in the conciliation. In fact we are giving the maximum respect to vested interests. Under such an arrangement as is enacted in British India, the agreement may be effected amongst only *some* persons and that may cause hardship to those who do not agree and therefore there is necessity for the statute itself to provide for the status of the Conciliating Officer. Sir, in view of our scheme, an argument should have been advanced from the side of the debtors that I am rather sentimentally inclined towards vested rights and showing them undue respect. But I am surprised to find Mr. G. Narayana Aiyar telling the House that these provisions operate against vested interests and rights. He should have welcomed the provisions in the Bill because they protect vested rights to the extremest extent and he must have been thankful to the authors of this Bill.

Mr. G. Narayana Aiyar : Sir, in the Civil Procedure Code no authority is given to the officers to penalise secured creditors. May I know under what principle the conciliating officer should treat a secured creditor who comes for conciliation ?

Mr. Kayalam Parameswaran Pillai : That does not arise at all here. Here nothing will be done to the secured creditor unless he agrees.

Mr. G. Narayana Aiyar : What I ask is, why priority is not declared in the statute itself to the secured creditor ?

Mr. Kayalam Parameswaran Pillai : There is no occasion for it, and it will be quite irrelevant to the scheme of the Bill.

Mr. G. Narayana Aiyar : Originally the Bill contained a definition of secured credit but now we find it is omitted.

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Mr. Kayalam Paramesvaran Pillai: There is necessity for it now, because conciliation cannot take effect unless everyone agrees.

Mr. N. Ramakrishna Pillai (*Vaikam* cum *Shertallai*): Is there no similar provision in the Insolvency Regulation that the secured creditor may give up his priority?

Mr. M. N. Paramesvaran Pillai: Has the learned Law Member come across any instance of a secured creditor giving up his security?

Mr. Kayalam Paramesvaran Pillai: Sir, I must give the palm to Mr. M. N. Paramesvaran Pillai in this matter and I will look up to him for light.

Now, Sir, another point on which there was some criticism was as regards the necessity for a Land Mortgage Bank.

Mr. M. N. Paramesvaran Pillai: What about the practical working of the Conciliation Boards?

Mr. Kayalam Paramesvaran Pillai: I will not omit it; I will come to it later on. If I do not, Mr. Paramesvaran Pillai may remind me by a question later on.

Now let me deal with the criticism that no provision is made in the Bill for the Land Mortgage Bank to advance money for paying off the conciliated debts. Now this comment is made on a wrong notion as to the appropriate function of the bank and the appropriate function of the Conciliation Board. This Bill provides for the creation of a machinery for conciliating debts and does not relate to the functions of the bank or the various duties of the bank.

There is no provision here for the creation of a bank, or to fix the responsibility among the members of the bank or to provide for the assets and liabilities of the bank or to lay down the method of the working of the bank. The advancing of money by a bank to pay off conciliated debts will be but one of the functions of a bank and we cannot lay down that any bank shall advance the money without dealing with the bank in other respects also and providing for every thing else. So far as the Land Mortgage Bank existing at present is concerned, it is a Government concern and Government do not want legislative provisions in respect of that, and whatever they could do would be done by administrative orders. But I may say that the question of bringing into existence a large Central Bank is under consideration of Government. That however is a different matter and has nothing to do with this Bill because this Bill is intended to provide only for the machinery for conciliating debts. What Clause 15 (*a*) of the Bill lays down is;

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[Mr. Kayalam Paramesvaran Pillai.]

"That the debtor pay the creditor or creditors forthwith, or within a time to be fixed by the Board a lump sum in cash in full settlement of all debts, the amount of such lump sum being fixed by the Board having regard to the facts enumerated in Section 13 and to the amount which the debtor may raise be mortgaging his entire properties to the State Land Mortgage Bank or to some such recognised institution".

The real point here is to indicate that cash payment would be an inducement for conciliation and that, that should be one of the methods of conciliation. As to how the bank will advance the money to pay off the conciliated debts, you must look to the rules of the bank and tell them : here is the conciliated amount ; will you please accept the debtor's property as security and advance the amount? The bank must themselves be satisfied as to the security and other means to advance money. If a Conciliation Officer says "I have looked into the property of this debtor and I find that it is worth Rs. ten thousand and that 5000 rupees may be advanced by the bank on the security of it" can any bank with a sense of responsibility act upon that and advance money? No. The bank must be satisfied of the valuation and the advisability of advancing the money.

Mr. M. N. Paramesvaran Pillai: Do not Government have confidence in their officer?

Mr. Kayalam Paramesvaran Pillai: Yes, to the extent of the official functions entrusted to him. If they appoint a surgeon, they will trust in him for doing a surgical work but not an engineering work. They will trust in their Conciliation Officer for doing the conciliation work but not the bank's work. The conciliator is a *conciliating* officer and not the bank's agent. So we cannot *compel* a bank to advance money merely on the recommendation of the Conciliation Officer. But it may be expected that he will consult the bank's authorities in deciding upon the conciliation. From all this, it must not be supposed that Government are shirking their responsibility for making money available through a bank. I may remind the House that even before this Bill was originally drafted Government recognised their resposibility. Shortly after the Agricultural Debt Redemption Committee presented their report, Government decided that the Land Mortgage Bank should advance money to pay off conciliated debts. That order was issued and published as a Press Note. In that, the Land Mortgage Bank was directed to advance money to pay off conciliated debts and that preference should be given to applications for such loans.

Mr. M. N. Paramesvaran Pillai: May I know whether there was any instance of help rendered by Government?

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Mr. Kayalam Paramesvaran Pillai: I am not sure; I dare say that there may not be many in the absence of an accepted machinery for conciliation. This Bill will help in the matter. In the very nature of things you cannot expect the creditor and the debtor to meet together themselves and conciliate the debt. You want a friend, philosopher and guide who will intervene and stand between the creditor and the debtor; he will take the creditor with one hand and the debtor with the other and by persuasion induce an amicable settlement. It is that friend, philosopher and guide that we are setting up by this Bill. When there is conciliation, there will be "conciliated" debts and then the bank will come into play. But you cannot by this legislation compel the bank to advance moneys. If the bank happens to be a non-official concern owned by share holders, will the House ask the bank to advance money to pay off all these debts, merely on the strength of the conciliation ?. That is the legal position. The bank must work through their own agents. As a matter of fact my idea is that when this conciliation scheme is put into operation it should be linked with the banks; agents of the banks should work in association or consultation with the Conciliation Officer. The Conciliation Officer must be able to tell the parties: "here is a bank which is prepared to advance such and such amount on the security of the debtor's properties; will you scale down, *i.e.*, conciliate the debts to that figure".

Mr. M. N. Paramesvaran Pillai: May I know how the valuation made by the Conciliation Officers would be accepted by the creditors? The Law Member was saying that the valuation of the assets of the debtor fixed by the Conciliation Officer cannot be accepted by the banks. Then what is the fun of asking the debtors, including other banks, to accept the valuation fixed by the Conciliation Officer?

Mr. Kayalam Paramesvaran Pillai: My Bill does not ask that they *should* accept. The Conciliation Officer will only say: "here is a bank that will advance so much money for the property; are you, the debtor and the creditor, prepared to accept the arrangement?" If they are, it is all right; if not, nobody is compelled.

On all occasions and wherever any difficulty or doubt is felt, apply the tests of the special feature of conciliation that it can come into effect only if it is agreed to by *everybody*.

Mr. M. N. Paramesvaran Pillai: May I know how the Law Member expects that these debtors would pay the debts even after it is fixed by the Conciliation Officer?

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Mr. Kayalam Paramesvaran Pillai: If they are to pay the debts in cash, somebody must find the cash. That cash is ordinarily expected to be obtained with the help of some bank.

Now in regard to the criticism that if *everybody* should agree in order to make the conciliation effective how is any conciliation going to take place at all? Will not somebody object and make conciliation impossible? The reply is firstly that the debtor and creditor are after all human beings and are being led by the hand by the Conciliation Officer as by a friend, philosopher and guide. As such, all reasonable proposals are likely to be acceptable to both if they are believed to be reasonable in the circumstances. No doubt, when money is the question at issue they will agree only on business considerations. Even so, conciliation is a practical proposition. If, for instance, the Conciliation Officer can place before the creditor the offer of a lump sum even though it may be a scaled-down amount, every creditor is likely to agree. I need not dilate on it. That is the inducement to the conciliation indicated in sub-clause (*a*) of Clause 15. In the method in sub-clause (*b*) the properties of the debtor are actually distributed amongst the creditors and the Conciliation Officer says in effect: "here are the properties distributed amongst you all, please take it and be done with your debts". The creditor has the inducement of an immediate settlement then and he may agree on that consideration. The third method in sub-clause (*c*) is to give forthwith a portion in cash and give security for the balance to be paid in instalments. This is an expeditious settlement and creditors may agree on that consideration. The creditor will also note that if he refuses to agree and goes to court, there may be a lot of difficulties and in the end he may not after all get much more than was offered by the Conciliation Officer as an immediate settlement.

Mr. M. N. Paramesvaran Pillai: Will money be forthcoming under this provision?

Mr. Kayalam Paramesvaran Pillai: Yes, money or money's worth. The creditor after all is not a wicked man. He has no animosity to the debtor. He desires to live in friendliness with the debtor who is perhaps also his neighbour. He only wants to get his money to the extent reasonably possible, or get money's worth, according to his needs. If for instance the creditor is a merchant he may require cash for the moment; then he would accept a small amount in cash in full settlement. Or he may be a cultivator himself; if so, he would prefer to get some land in lieu of the money due to him. Or, he may be a rich money lender and he may be satisfied if there is security for payment in instalments

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though spread out for a long period. There are all inducements to agree to a conciliation. The Conciliation Officer's merit lies in finding out that thing that will be acceptable to all. There is also the penalty for not accepting a fair conciliation, namely the forfeiture of costs or reduction of interest. That penalty is not much and by itself may not achieve much. But still it acts as some compulsion. The three inducements referred to are the important motives. It is conceived that with these three tons of persuasion and the one ounce of compulsion, conciliation would become a practical proposition.

Mr. S. Piraviperumal Pillai: But there is not one grain of advantage.

Mr. Kayalam Paramesvaran Pillai: Then the creditor will not accept the conciliation,

Chairman: The House will now adjourn for lunch and reassemble at 2.

The House adjourned for lunch at 1 P. M. and reassembled at 2 P. M. with Mr. V. S. Arumukham Pillai, one of the Panel of Chairmen, in the Chair.

Mr. Kayalam Paramesvaran Pillai: When the House adjourned for lunch I was trying to explain that even though conciliation cannot become effective unless it is assented to by each and every one of the parties before the Conciliation Board, it need not for that reason become impracticable because there are persuasions that will induce the acceptance of the conciliation besides of course the small compulsion provided by Clause 19 which gives power to the court to disallow costs or reduce interest. This compulsion is not much after all. It is only one ounce of compulsion by the side of the three tons of persuasion.

A criticism was then made here that the big debtors need not be given any consideration at all by this Bill. I can understand the principle that the small debtors deserve greater sympathy and consideration at the hands of Government. But that need not necessarily mean that the big debtor should be put out of consideration. He may also be protected if that can be done with the resources available to the State and without prejudice to the smaller debtors. Now it will be seen that this Bill contains various methods of relief. We provide, for instance, in Clause 33 that a decree may be converted into an instalment decree. That is an appropriate relief to the big debtor. Why should you deny it? He may not deserve an advance of money from the State Land Mortgage Bank. But why not he be given this benefit of instalment payments. Then again look at the provision for reduced interest. Again some of the methods of conciliation, as for instance, the distribution of the property of the debtor amongst the creditors or arrangement

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[Mr. Kayalam Paramesvaran Pillai.]

for instalment payments are appropriate means of relief to the big debtors which need not be denied to them. Therefore there is no meaning in leaving out the big debtors.

Mr. G. Narayana Aiyar: Why not all debtors be given relief irrespective of agricultural or any other category.

Mr. Kayalam Paramesvaran Pillai: That is a much larger question and does not arise now. Agriculturists form the bulk of the population of the State, and agriculture forms the basis of all wealth in this State. The agriculturists are the roots of the tree of State which bear the big fruits, say the industrial magnate or the Government official. To preserve the agriculturists is not merely an impulse of sympathy. It is born of the instinct of self-preservation. If the State wants to exist, it must have the agriculturist. If he is gone, the State is gone; and so the State, perhaps out of selfishness, intervenes and protects the agriculturist.

Then again a criticism levelled was that conciliation was expropriatory. That also is very easily answered by the test that I laid down. For just think that conciliation would become effective only if all the parties agree to it. Apart from that, is not insolvency expropriatory in some sense, not of course in the correct sense. In insolvency you may get as dividend perhaps only one anna in the rupee. That cannot be helped. Such is the principle, the principle of the law of insolvency that underlies conciliation. Only we are not making the agriculturist an insolvent and attach a stigma to him. We do not want to make the agriculturists insolvents or paupers. On the other hand, the State wants the agriculturists to be set up as a respectable class to till their land peacefully and without any molestation and thus to increase the wealth of the State.

Mr. M. N. Paramesvaran Pillai: May I know whether there is any difficulty in conferring the powers on the courts of the country instead of on the conciliation officers?

Mr. Kayalam Paramesvaran Pillai: That would be something like asking the Chief Engineer to perform the duties of a surgeon, because while the function of the Chief Engineer is building, the function of the surgeon is a surgical operation. So also, the function of the Conciliation Officer is to propose things on discretion and not to judge according to rules of law. As I very often said, the Conciliation Officer should be a friend, philosopher and guide and conciliate; it is not a question of anybody administering the law.

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There is only one more point to deal with and that is in regard to one of Mr. Paramesvaran Pillai's criticisms. He said that a man who is able to cultivate one cucumber in his back yard is also an agriculturist under the definition proposed. Such criticism may raise roars of laughter. But it discloses a very lamentable lack of care in perusing and understanding the clauses in the Bill.

Mr. M. N. Paramesvaran Pillai: What about the subsequent clauses?

Mr. Kayalam Paramesvaran Pillai: Living by agriculture does not mean that he lives by raising one cucumber for all the 365 days of the year. Everybody knows that a man cannot live all the 365 days on one piece of cucumber.

Mr. M. N. Paramesvaran Pillai: Suppose he gets half a dozen cucumbers?

Mr. Kayalam Paramesvaran Pillai: Even that is not sufficient. If the raising of one cucumber can be considered the main source of living for a man for a year then I can scrap this Bill and go home and ask everybody to go and live upon one cucumber a year. I can very well understand discerning criticisms. But I regret very much that such criticisms are offered without even carefully reading the clause concerned.

Mr. M N. Paramesvaran Pillai: The Law Member is a little bit exaggerating what I said, Sir.

Mr. Kayalam Paramesvaran Pillai: That is the substance of what he said, Sir. If he does not want this Bill, let him throw it out by all means. If there is anything in the Bill advantageous to the agriculturist then let him pass it. But let us not spend time in such criticisms. This is not the sort of criticism that a business-like body like ours should make against a Bill in this House. Sir, it may be a very amusing and very interesting pastime. But everybody knows that Rome was burning when somebody was fiddling. The agriculturist wants this law for obtaining relief and is waiting for it. Are we to sit here indulging in such criticisms? Let me appeal to the House to pass this Bill as early as possible, so that it may very soon become law.

Chairman: The motion before the House is that the Agriculturists' Relief Bill, as passed by the Sri Mulam Assembly, be taken into consideration of this House.

The motion was put and carried.

Mr. Kochikal P. Balakrishnan Tampi (*Karthikapally and Mavelikara* cum *Kunnathur*): I demand a poll.

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A poll was taken and the House divided as follows:

AYES—22.

1	Mr. M. N. Narayana Menon	12	Mr. M. Govindan
2	,, K. P. Nilakanta Pillai	13	,, N. Ramakrishna Pillai
3	,, K. Padmanabha Panikkar	14	,, K. Rama Varma Raja.
4	,, N. K. Padmanabha Pillai	15	,, Komilezhathu Sankaran
5	,, H. O. L. Marikkar	16	,, A. N. Visvanatha Pillai
6	,, M. P. Madhavan Pillai	17	,, K. Madhava Kurup
7	,, Eric Hall	18	,, K. Parameswara Panikkar
8	,, Sayed M. Bava	19	,, A. Rengasvami Aiyar
9	,, Kochikal P. Balakrishnan Tampi	20	,, James Simpson
10	,, C. M. Joseph	21	,, K. George
11	,, J. John Kattakayam	22	,, Kayalam Parameswaran Pillai.

NOES—3.

1	Mr. G. Narayana Aiyar	3	Mr. K. N. Kesavan Namputiripad
2	,, S. Piraviperumal Pillai		

NEUTRAL.

Mr. M. N. Paramesvaran Pillai.

The motion was declared carried, 22 voting for, 3 against and one remaining neutral.

Chairman: Now we may proceed to the discussion of the Bill, clause by clause.

With regard to amendments 1, 2, 3 and 79 * in the list of amendments this is my ruling —

The principles relating to amendments are clear. An amendment cannot be moved if it is irrelevant to the Bill, or beyond the scope of the Bill or of the clauses under consideration. An amendment which is equivalent to a negative of the Bill has also been ruled out of order. These principles are well known and are enunciated in pages 404 and 405 of May's Parliamentary Practice, as also in our Standing Orders.

Bearing these principles in mind, the amendment, proposed by Mr. M. N. Paramesvaran Pillai to substitute the word 'debtors' for the word 'agriculturists' and to carry out consequential amendments, is really tantamount to such a modification of the essential ideas of the Bill as to be, in essence, inconsistent with it. I therefore rule that these amendments are out of order.

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* The amendments referred to are:

Title.

1. MR. M. N. PARAMESVARAN PILLAI:
   (*a*) For the word "Agriculturists" substitute the word "Debtors".
   (*b*) In lines 2 and 3, omit the words "in relief of agricultural indebtedness" and substitute the words "for the relief of debtors".

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Clause 1.

Mr. G. Narayana Aiyar: Sir, I move the following amendment.

In sub-clause (*b*) add at the end "and shall be in force for a period of two years".

Chairman: Anybody to second it?

Mr. M. N. Paramesvaran Pillai: I second it.

Mr. G. Narayana Aiyar: I would submit that, the Debt Redemption Committee which submitted the report have clearly stated on Page 121 that the relief measures proposed are temporary and that it was necessary only for three years. The report was submitted on 1st October 1935. Since then conditions have improved. Even if we accept the recommendation of the Committee, one year has elapsed and this measure is necessary only for about

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The title as amended will read thus :—

The Travancore Debtors' Relief Bill.

A Regulation to make certain provisions for the relief of debtors.

Preamble.

2. MR. M. N. PARAMESVARAN PILLAI:

For the words "in relief of agricultural indebtedness" substitute thes words "for the relief of debtors".

The Preamble as amended will read thus :—

Whereas it is expedient to make certain provisions for the relief of debtors; It is hereby enacted as follows :—

PART I.

Clause 1.

3. MR. M. N. PARAMESVARAN PILLAI:

Sub-clause (*a*). Substitute the word "Debtors" for the word "Agriculturists".

The sub-clause as amended will read thus :—

(*a*) This Regulation may be called The Travancore Debtors' Relief Regulation.

PART III.

Clause 33.

79. MR. M. N PARAMESVARAN PILLAI:

Omit Clauses 33 to 36 and substitute the following as Clauses 3 to 6.

"3 Notwithstanding anything contained in any law, contract, decree, or order of court, no court shall allow recovery of more than six per cent interest on any debt either subsisting on, or contracted after the date of the commencement of this Regulation.

4. (i) Notwithstanding anything contained in any law or contract no court shall, in respect of the period antecedent to the institution of the suit, allow a higher rate of interest than six per cent per annum and the amount adjudged as interest for such period shall not exceed one-half of the principal amount sued for.

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[Mr. G. Narayana Aiyar.]

two years. If prolonged it is capable of doing a lot of mischief. It is not a Bill which should be in the Statute Book permanently. The price of cocoanut has risen to Rs. 4 per hundred as anticipated by the court and the same is steady. The price of staple products of export like rubber, tea, cardamoms etc. have risen steadily and may not go down due to restriction schemes, circulars and control regulations. As such if a Bill is thought necessary it shall remain in force only for 2 years and hence the amendment.

Mr. Kayalam Paramesvaran Pillai: Sir, I oppose the amendment. As I stated in my opening speech though there is some increase in prices, still it cannot be said to have improved the situation. As has been very rightly stated, even though price of cocoanuts has gone up a little, the number of nuts available is considerably reduced. Therefore it is only right that we should try this measure for some time.

(ii) Notwithstanding anything contained in any law or contract no court shall, in addition to the interest awarded under sub-clause (i) decree payment of interest on the principal sum adjudged of such amount as may accrue at a rate not exceeding six per cent. from the date of suit to the date of decree and the amount adjudged as interest for such period shall not exceed one-half of the principal amount sued for.

(iii) Notwithstanding anything contained in any law or contract, no court shall, in addition to the interest decreed under sub-clauses (i) and (ii) decree future interest at a rate higher than six per cent. on the principal sum from the date of decree to the date of realisation and the amount adjudged as interest for such period shall not exceed one-half of the principal amount sued for.

5. Notwithstanding anything contained in any law, contract, decree or order of court, no interest shall accrue or permitted to be recovered as accruing in respect of any debt due in paddy or grain at any rate exceeding nine per cent. per annum.

6. (i) Notwithstanding any law, contract, decree or order of court, a debt subsisting on the date of the commencement of this Regulation shall be deemed to have been fully discharged if the debtor is able to pay sixty-five per cent. of his debt including interest calculated at six per cent. within a period of two years from the date of this Regulation.

(ii) In default of payment under sub-clause (i) the debt shall be deemed to be fully discharged if the debtor pays seventy per cent. of the debt in the third year, seventy-five per cent. in the fourth year, eighty per cent. in the fifth year, eighty-five per cent. in the sixth year, ninety per cent. in the seventh year, and ninety-five per cent. in the eighth year."

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Mr. S. Piraviperumal Pillai : Sir, In supporting the amendment I beg to submit that if this amendment is now accepted the hardship of the agriculturists may be relieved and at the same time the creditor may not be put to great hardship. As has been pointed out by Mr. Narayana Aiyar, prices of rubber, tea and other commodities have risen. If this Bill had retrospective effect, then the agriculturist would have been relieved for the period he was actually suffering from depression. Relief was found necessary and intended for the period of depression between 1105 and now. According to this Bill the relief that would come is for a period from next year *i. e.*, at a period when prices have gone up and the agriculturist is expected to fare better.

Mr. Komilezhathu Sankaran : May I know from the member whether the price of paddy has risen ?

Mr. S. Piraviperumal Pillai : I am coming to that.

The prices of rubber and tea are on the increase and we are slowly passing the depression period ; and the clouds are lifting so far as they are concerned, we have almost jumped over the hurdles and rounded the corner. That being so it is hard to ask the creditor who advanced money, to give up what possibly he can expect to get as interest. If a scorpion stung a cocoanut where is the use of removing the poison from a tamarind tree? Three years ago the agriculturists suffered ; prices were low and they were in need of relief. Now when prices are going up and there is chance of higher return, why should the creditor suffer ?

With regard to paddy, I cannot say that prices have not gone up. I do not say that the prices are the same as before depression time but however prices have really gone a little up. Therefore I support the amendment moved by Mr. Narayana Aiyar.

Mr Kochikal P. Balakrishnan Tampi : Sir, I oppose the amendment. We are not concerned with an academic discussion whether the depression has vanished or not. Although it may seem a paradox, the depression has almost become normal. There is no point in restricting the operation of the Bill to two years. I may point out that the Legislature will continue to function even after two years and if the Legislature then thinks that there is no necessity for this law it is open for it to cancel the Bill. As it was said at the very outset, this measure does not bring adequate comfort to the debtors. But this measure is intended to prevent certain developments which should be prevented and which I am sure will develop in the State unless there is at least some show of protection. If it is shown that the Government and the Legislature are indifferent to the cries of poor people, certain developments might take place here. Therefore, I appeal to this House not to accept the amendment. With these words I oppose the amendment.

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(At this stage the President occupied the Chair).

Mr. J. John Kattakayam : സർ, ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. റബ്ബർ തേയില മുതലായ ഉല്പന്നങ്ങൾക്കു വിലയുണ്ടെന്നും മറവും ആണ് ഈ ഭേദഗതി കൊണ്ടുവരുന്നതിനു കാരണമായി പറയുന്നതു്. അവക്കു ഇതിന്റെ സ്ഥിതിഗതികളുടെ വാസ്തവം ശരിയായി അറിയാമെങ്കിലും ബില്ലിനെ ഇല്ലാതാക്കണമെന്നുള്ള ഉദ്ദേശമാണ് ഇതിനെ പ്രേരിപ്പിക്കുന്നതെന്ന് സംശയിക്കേണ്ടിയിരിക്കുന്നു. ഉല്പന്നങ്ങളുടെ വിലക്കു യാതൊരു വ്യത്യാസവും പറയത്തക്കവിധത്തിൽ ഇതുവരെ ഉണ്ടായിട്ടില്ല അതിനാൽ മൂന്നു കൊല്ലത്തേക്കു പകരം രണ്ടു കൊല്ലത്തേക്കായി മാത്രം ഈ നിയമത്തിന്റെ കാലാവധി കുറക്കുന്നതിന്റെ ആവശ്യവും എനിക്കു മനസ്സിലാകുന്നില്ല. നാളികേരത്തിന് ഇപ്പോൾ വിലയുണ്ടെന്നു പറയുന്നു. മുൻപ് കിട്ടുമായിരുന്ന എണ്ണത്തിന്റെ പത്തിലൊന്നു നാളികേരം ഇപ്പോൾ കിട്ടുന്നില്ല.

Mr. A. N. Visvanatha Pillai (*Quilon cum Karunagapalli*): നാളികേരത്തിനു ഇവിടെ ചില മെമ്പർമാർ പറയുന്നതുപോലെ വാസ്തവത്തിൽ വിലക്കൂടുതലുണ്ടോ?

Mr. J. John Kattakayam: വാസ്തവത്തിൽ നാളികേരത്തിനു വിലകൂടീട്ടില്ല. ക ഠ ഠ-ക്കു ര രൂപ വിലയുള്ളതായി ഞാൻ അറിയുന്നില്ല. അങ്ങിനെ വിലയുണ്ടെന്നു പറയുന്നതു് അബദ്ധമാണ്. കഴിഞ്ഞകൊല്ലത്തെ അനാവൃഷ്ടിയും കാലപ്പിഴയും മറവുംകൊണ്ടു് നാളികേരം ഇക്കൊല്ലത്തിൽ വളരെ കുറവാണു. പിന്നെ റബ്ബറിനും തേയിലക്കും വിലക്കൂടുതലാണെന്നു പറയുന്നുണ്ടു്. ക ഠ ഭ-നു മുമ്പു് റബ്ബറിന്റെ വില എന്തായിരുന്നു? ഭേദഗതി കൊണ്ടുവന്ന മെമ്പർ അതിനു സമാധാനം പറഞ്ഞാൽ കൊള്ളാമായിരുന്നു. റബ്ബറിന് ക ഠ ഭ-നെ അപേക്ഷിച്ചു നോക്കുമ്പോൾ വലിയ വിലക്കൂടുതലുണ്ടെന്നു പറയുവാൻ നിവൃത്തിയില്ല. പിന്നെ തേയിലയെപ്പറ്റിയാണു്. തേയിലകൊണ്ടു് കാലയാപനം ചെയ്യുന്നയാളുകൾ നമ്മുടെയിടയിൽ എത്രപേർ ഉണ്ടു്? അന്യദിക്കുകാരും യൂറോപ്യന്മാരുമാണു തേയിലകൃഷി അധികം നടത്തുന്നതു്. തേയിലയിൽ നാട്ടുകാർക്കു എന്തുകിട്ടുന്നു? റബ്ബറിനു വില കുറച്ചു കൂടി എന്നു വിചാരിച്ചാലും വളരെ കുറച്ചു പേർ മാത്രം ആ കൃഷിയിൽ ഏർപ്പെട്ടിരിക്കുന്ന നിലക്കു അതുകൊണ്ടു രാജ്യമൊട്ടുക്കുള്ള കർഷകർക്കു എന്താശ്വാസം ലഭിക്കുന്നു? ഭൂരിപക്ഷം ജനങ്ങൾക്കുള്ള ആശ്വാസത്തിനു വേണ്ടിയാണു ബിൽ നിർമ്മിക്കുന്നതു്. ജനങ്ങൾ ഇന്നും ദാരിദ്ര്യത്തിൽ മുഴുകിയിരിക്കുകയാണു്. ഈ വക കാര്യങ്ങളാൽ ഞാൻ ഭേദഗതിയെ എതിർക്കുന്നു.

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The amendment was put to vote and lost.

The question that Clause 1 stand part of the Bill was put and carried.

Clause 1 was added to the Bill.

Clause 2.

Mr. G. Narayana Aiyar: I beg to move the following amendment :—

In Clause 2, sub-clause (a), line 1, add after "person" "whose yearly income from sources other than agriculture does not exceed Rs. 500 and whose aggregate income from all sources does not exceed Rs. 1,000 and".

It is highly necessary to fix a limit of income of the debtor who is to be given relief under this Bill. There is such a limit prescribed in all such legislations elsewhere. The Report of the Committee says that the total amount of debts is about 26 crores of rupees. Certainly, it will not be possible to give relief to all the debtors; all the money necessary may not be available. Therefore, with the money available, it is better to give relief to as many as possible. More than 80 per cent of the debtors owe only Rs. 2,000 or less. It is better that the majority of the debtors are given relief and with limited funds to give relief to all is impossible.

Further, the High Court also have stated in their memorandum that, in Madras, debts exceeding Rs. 2,000 do not come under the purview of the Board, and that the Government, in the Rules to be framed by them, may fix a similar limit here also.

Mr. S. Piraviperumal Pillai: I second it.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. The limitation in regard to the income of the debtor, may, perhaps, in theory, appear to be sound. But as I stated in my speech on the motion for the consideration of the Bill, there are very many provisions in the Bill which, in their nature and substance, are appropriate to large incomes and large debts The only limitation that can perhaps be appropriate will be in regard to the advances to be made by the Land Mortgage Bank. But that is not an essential part of conciliation. That aspect may be left to be decided by the authorities of the bank, who are to make the advances.

As it is, I oppose the amendment.

Mr. J. John Kattakayam: ഈ ഭേദഗതിയെ ഞാൻ എതിർക്കുന്നു.

The amendment was put to vote and lost.

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Mr. G. Narayana Aiyar: I beg to move the following amendment :—

In Clause 2, for sub-clause (e) substitute "'Debt' means any liability of an agriculturist, not exceeding Rs. 2,000 and incurred for the purpose of agriculture, due in cash or kind, secured or unsecured payable under a decree or order of a civil court or otherwise and whether mature or not, but shall not include :

(i) any debt or liability due to Our Government. or
(ii) any land revenue or anything recoverable as an arrear of land revenue, or
(iii) any amount for the recovery of which a suit or application is barred by the law of limitation for the time being in force, or
(iv) any debt incurred for purposes of trade, or
(v) any debt due to a Co-operative Society, or
(vi) any debt arising out of any transaction of the nature of a lease including a *kanapattam* transaction falling within the purview of the Travancore Jenmi and Kudiyan Regulation of 1071."

Sir, in all other similar enactments, in Mysore and in Madras, for instance, such a limit has been prescribed. Such a limit will afford relief to the maximum number of debtors. That is my argument in regard to the first portion of the amendment.

In regard to the subsequent portions of the amendment relating to the various kinds of debts which I seek to exclude from the definition of 'debt', they are not agricultural debts strictly speaking. If trade debts, for instance, are not excluded, trade is sure to be paralysed, trader will not sell things on credit system. If the *pattam* on lands leased is not excluded, no property will be leased out in future. After all, Sir, *pattam* is the landlord's share of the *profit* that comes out of the land leased. It has absolutely no resemblance whatsoever to debts. The agriculturist has not sufficient property with him for cultivation and he may have to starve. I therefore submit that these items may be excluded.

Mr. K. N. Kesavan Namputiripad (*Jenmies*): I second the amendment. Sir, in the original Bill these items have been excluded. It is the Select Committee that has introduced them. While the Law Member argued that the inclusion might not harm the Jenmies, he did not adduce any reason in support of such inclusion.

Mr. Kayalam Parameswaran Pillai: I oppose the amendment. I shall not take up any time, as I have dealt with this matter at length in my speech moving for the consideration of the Bill.

The amendment was put to vote and lost.

Mr. S. Piraviperumal Pillai: Sir, in moving the following amendment :—

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In Clause 9, sub-clause (e). after (iii) add as part (iv) the words "any debt or other liability due to traders",

I beg to submit that traders as a class have suffered equally if not more than the agriculturists, on account of the fall in prices. This fact has been testified to by the Committee in page 27 of their Report, where they say—

"The trading community, for instance, has also been severely hit by the depression".

Sir, this Bill, while seeking to give relief to the agriculturist, should not in any way injure the trader. The fall in prices has affected the trader also. The Economic Depression Enquiry Committee have clearly stated in their Report that the merchants had been compelled, by the fall in prices, to sell at a price lower than their cost price, and that if they had thought of keeping their stock with the hope of selling at higher prices, they would have had to wait indefinitely to their detriment and loss.

Sir, the amounts due to the trader are not like the debts due to the money lenders. The trader has himself borrowed and has converted the money into goods. And, he has to pay his creditor or banker in full ; this ill does not seek to give him any relief. On the contrary, this works a great hardship on him. Sir, what was his plight when prices suddenly went down? He had to sell his goods according to the market value. The market value went down by 50 and 60 per cent. So, he had to sell the goods for half of what he bought them. Now he has to go before the Conciliation Board and wait for years to get back his money in instalments of 12 and 15. It is a matter of common knowledge that Travancore commercial community suffers for want of finance. That fact has been clearly stated in the report of the Economic Depression Enquiry Committee. There it is stated :—

"The immediate difficulty of the Travancore merchants is finance. This is especially true in the case of those who are engaged in the manufacturing and exporting business. The times are so bad that even those who are habituated to doing straight business, frequently find themselves involved in financial embarrassments on account of certain market conditions and restricted credit facilities. Those who had stocked goods lost heavily. Obviously there have been many failures among traders of this class, The rural retail trader depends almost entirely on credit allowed him by the urban traders. The local money-lenders and the chitties have ceased to be of assistance to him".

What shall we do for continuing our trade? He is really in difficulty and is being hampered on both sides. On the one side he has to give interest at the stipulated rate to the banker and on the other side he cannot get money from the agriculturists to whom he has sold his commodity

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[Mr. S. Piraviperumal Pillai.]

at half the price he bought it. Now he has to go before the Conciliation Boards and wait for years. How is he to get on? If there is no credit in the country how can trade go on? Therefore I submit that the debts due to traders should be excluded from the purview of this Bill. I see that there are certain other classes of dues which are excluded from the purview of the Bill such as debts due to Government, land revenue or anything recoverable as an arrear of land revenue etc. Therefore I ask, why not the debts due to traders also be exempted? As I said, it is not money that he has given. He stocked goods at high prices and he had to sell them at very low prices.

Mr. Komilezhathu Sankaran: What about the agricultural commodity stocked by the traders?

Mr. S. Piraviperumal Pillai: I am very glad Mr. Sankaran also supports me. There is difficulty on that account also. The credit of the country also has gone down. Without credit how can the traders get on? He has to get down goods from British India. Already a scare has been created and we are now not able to get down goods from British India. The traders are therefore placed in that difficulty also. Therefore I submit that the debts due to traders should also be exempted.

Mr. Sankaralingam Pillai: I support it.

Mr. Kayalam Paramesvaran Pillai: I agree with that portion of Mr. Piraviperumal Pillai's speech which said that trade debts should not be prejudiced. That is the very reason why I include trade debts within the provisions of the Bill relating to conciliation excluding from others. Trade debts are included only for the purpose of conciliation and not for any other purpose. They are included for the conciliation with a view to see that the particular creditor is not prejudiced by a conciliation made behind his back. I do not want to repeat all that I said on the motion for consideration.

President: The motion before the House is that—

"In Clause 2, sub-clause (*e*) after (iii) add as part (iv) the words *any debt or other liability due to traders*".

The motion was put to vote and lost.

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Mr. G. Narayana Aiyar : I beg to move the following amendment :—

> "In Clause 2, after sub-clause (*g*) add as sub clause (*h*) "Secured debt' includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise".

In moving this amendment I would submit that I am supported by all authors of similar Bills. It cannot be denied that there is a clear distinction between secured and unsecured debts. This provision was inserted in the original Bill. Owing to what circumstance it was omitted we do not know. There are similar provisions in the Madras Act, in the Baroda Act and in the Mysore Act. It also finds a place in the Civil Procedure Code. Whenever debts are realised in execution, secured creditors come first and then others in their order. The Transfer of Property Act recognises it and the Insolvency Act recognises it. What then was the necessity to postpone the right of the secured creditor against the unsecured creditor is not clear. Secured creditors advance money at low rates of interest. The Bill has not altogether overlooked the difference between secured and unsecured creditors. In the case of future interest there is provision which says that secured creditors must get a certain lower rate of interest and unsecured creditors can realise a higher rate of interest. Now I will refer to the observation of the Judges of the High Court. It says : —

> "The absence of any provision recognising the priority of secured debts over unsecured ones is somewhat disturbing. That the sanctity of the secured mortgages and other solemn secured contracts is proposed to be set aside, may really be regarded as being confiscatory in nature."

Courts of justice which are competent to give a definite opinion have declared in emphatic terms that it is a mistaken position that is taken by the Bill. I submit that under such circumstances my amendment may be allowed. After having invited the opinion of the Judges of the High Court who are the best authorities in matters of legislation and when they have entered their opinion in clear terms, to disregard the same will be highly discourteous to them.

Mr. Kayalam Paramesvaran Pillai : I shall not take up any time of the House in attempting to answer these questions. I have already taken a long time in explaining the implications of the Bill. I will only say that Mr. Narayana Aiyar is quite wrong in his contentions. The interest of the creditors is affected only if they agree to the terms of the conciliation. I shall not say more

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President: The motion before the House is as follows:—

"In Clause 2, after sub-clause (*g*) add as sub-clause (*h*) "Secured debt' includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed statute or otherwise".

The motion was put to vote and lost.

Mr. G. Narayana Aiyar: I move the following amendment:—

"In Clause 2, add as sub-clause (i) 'Secured creditor' means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise".

Here also all civilised legislatures recognise that there is a good deal of distinction between a secured and an unsecured creditor. The Hon'ble Law Member has said that even if a secured debtor does not accept the terms of conciliation he does not lose his rights. I cannot understand that position. Even though it is said that conciliation is made on a voluntary basis, if the creditor does not consent to it he is penalised under the provisions of Section 19. If the debtors so desire they can put off payment and at the same time get the benefit of scaling down debt. The secured creditor is entitled to some preference. In Regulations passed in other States the penalty provided is comparatively small and will come into force only if the debtor is prepared to deposit the conciliated amount in time. Therefore I submit that the House may support my amendment.

Mr. M. N. Paramesvaran Pillai: Sir, I wish to say a few words. The provisions under this part of the Bill are not going to do any good to the traders in spite of the assurance made by the learned Law Member.

Mr. Kayalam Paramesvaran Pillai: Which is the amendment on which the member is speaking?

Mr. M. N. Paramesvaran Pillai: I am speaking on amendment No. 26.

President: We are at amendment No. 25.

Mr. M. N. Paramesvaran Pillai: I thought we are on amendment No. 26.

Mr. Kayalam Paramesvaran Pillai: I am sorry that Mr. Narayana Aiyar does not catch my point. Perhaps it may be my fault. I oppose the amendment.

President: The motion before the House is as follows:—

"In Clause 2, add as sub-clause (i) 'Secured creditor' means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise".

The motion was put to vote and lost.

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The question that Clause 2 stand part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 3.

Mr. M. N. Paramesvaran Pillai: My amendment regarding substitution of the Clause was not allowed. It was ruled out by the Chair. Let the Law Member have the satisfaction of having this part of the Bill.

Mr. G. Narayana Aiyar: Sir, I move that in Clause 3, sub-clause (*b*), add

> "provided that the jurisdiction of the Boards established under Section 3, sub-section (1) (*a*) shall be so defined and adjusted as to include the whole State".

Sir, in moving this amendment I have to say that if the provision is left as it is, we would find that all debtors will not be benefited. If the idea of Government is to benefit all debtors this provision is to be amended suitably. It is to see that all are equally benefited that I move this amendment and commend it to the acceptance of the House. The wording as well as the Title of the Bill would show that all agriculturists in the State are intended and entitled to be benefited. That being the case why should Boards be established only in certain areas? To see that one debtor at a particular place where a Board is established is benefited whereas his brothers in another place who are equally affected are not to be benefited from no fault of their's is very deplorable. I submit that this amendment may be accepted by the House.

Mr. Kayalam Paramesvaran Pillai: I feel highly gratified to see that at long last, Mr. Narayana Aiyar has found his way to see eye to eye with me in appreciating the benefits of conciliation; for that is the implication of the motion that Conciliation Boards should be established throughout the State. But there are practical difficulties in the way of accepting the motion. One honourable member called this conciliation "a leap in the dark". I would call it an experiment. The ambition of Government is to bring the benefits of conciliation to every body. But they can do this only by experimenting and by stages. With these words I oppose the amendment.

The amendment was put to the vote of the House and lost.

Mr. Kochikal P. Balakrishnan Tampi: Sir, I demand a poll.

Mr. M. N. Paramesvaran Pillai: Sir, on a point of order....

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President: Order, Order. As a matter of fact I do not think that there is any necessity for a poll as I found only 3 persons were in favour of the amendment and that all the others were against. Therefore, it seems to me that it will be really supererogatory to take a poll.

The question that Clause 3 do stand part of the Bill was then put and carried. The Clause was added to the Bill.

Clause 4.

The question that Clause 4 do stand part of the Bill was then put and carried. Clause 4 was added to the Bill.

Clause 5.

The question that Clause 5 do stand part of the Bill was then put and carried. Clause 5 was added to the Bill.

Clause 6.

Mr. G. Narayana Aiyar: I beg to move that in Clause 6 sub-clause (1) (*d*) the semicolon be omitted and after 'and' the followingbe inserted:—

"he is unable to pay his debts ; and".

The House will be pleased to note that it is only the debtor who is really unable to pay that has to be protected. Conciliation means scaling down the amount of debt.

Mr. Kayalam Paramesvaran Pillai: I question that.

Mr. G. Narayana Aiyar: Sir, conciliation really means scaling down of debts. If a debtor in his heart of hearts knows that he has to pay a certain amount and that he is unable to pay then why cannot the debtor boldly say in his petition that he could not pay back the debt. There is such a provision in the Insolvency Regulation as well as in the Medras Act. Wherein lies the difficulty in explaining his position before the Board and admitting his inability? Since he wants conciliation and since he wants to cut short the amount due from him why cannot he admit before the Board that he could not pay. With these words I move the amendment. When the creditor has to make the application he has to state that the debtor is unable to pay. Why should the debtor be allowed to maintain a false prestige? This amendment may be allowed.

Mr. M. N. Paramesvaran Pillai: Sir, I support the amendment proposed by Mr. G. Narayana Aiyar. Sir, there is a statement in Clause 6 Part I (*a*) that the debtor should give in his application the place where he resides and place or places where he holds immovable property. There is no necessity for a statement of that kind when the debtor is not made to admit himself that he

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is unable to pay. On the other hand in the case of an application filed by a creditor he is compelled to state that the debtor is unable to pay. And we do not find similar condition imposed on the debtor when he wants to put in an application. I want to know why the Law Member has shown a partiality in the case of the debtor and should impose conditions on the creditor. Therefore there is much force in Mr. G. Narayana Aiyar's amendment and I support it

Mr. Kayalam Paramesvaran Pillai: Sir, I rise to oppose this amendment. In regard to the applications filed by the debtor there are serious objections to including this item. One of them is a sentiment that the debtor may be saved from the indignity of being obliged to make this statement. Further, in the present day conditions of the market the debtor will not be able to say positively that he is not able to pay his debts. For the prices are so uncertain.

Mr. M. N. Paramesvaran Pillai: How can the creditor know the conditions of the debtor?

Mr. Kayalam Paramesvaran Pillai: Sir, the question is irrelevant now and I am not going to answer that. To continue what I was saying, it will be very hard if the debtor is compelled to state what may not after all be a fact according to his conscience and what is not after all quite necessary for conciliation.

Mr. G. Narayana Aiyar: May I know whether such a provision exists in any other Acts ?

Mr. Kayalam Paramesvaran Pillai: I cannot say that. Perhaps it does. This Bill is entirely different from similar Acts elsewhere. After all it does not matter much what the debtor states and the work of a conciliating officer will not be affected by it.

Mr. M. N. Paramesvaran Pillai: Why should the creditor alone take the risk ?

Mr. Kayalam Paramesvaran Pillai: I wish Mr. Paramesvaran Pillai will read the whole Clause.

Mr. G. Narayana Aiyar: Why is the other clause inserted ?

Mr. Kayalam Paramesvaran Pillai: I will explain to Mr. Paramesvaran Pillai first. There is no obligation on the creditor that he must make the statement that the debtor is unable to pay his debts.

Mr. M. N. Paramesvaran Pillai: The same obligation is not with the debtor.

Mr. Kayalam Paramesvaran Pillai: The creditor may do so. His position is different. He can state merely on his belief.

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Mr. M. N. Paramesvaran Pillai : If the creditor makes a statement not based on fact, is he not liable for defamation ?

Mr. Kayalam Paramesvaran Pillai : That will all depend... ...

The amendment was put to the vote of the House and lost.

The question that Clause 6 do stand part of the Bill was put and carried. The Clause was added to the Bill.

Clause 7.

Mr. G. Narayana Aiyar : Sir, I beg to move the following amendment :

Add as Clause 7 : "The application shall be rejected if it does not comply with any of the requirements mentioned in Section 6. The rejection of an application under this Section shall not preclude the applicant from making a fresh application" and renumber subsequent Clauses accordingly."

Sir, the proceedings before the Board are stated to be quasi-civil in nature. The provisions of the Civil Procedure Code are practically made applicable to some of the proceedings. Section 6 clearly says what shall be contained in the application. The Civil Procedure Code as well as any other civilized legislation require it. Sir, this is a very anomalous provision which cannot be conceived of in any legal manner. Similar legislations in Madras and other places do not make such a provision. I submit the amendment may be passed by the House.

Mr. Kayalam Paramesvaran Pillai : I oppose the amendment of Mr. G. Narayana Aiyar. Mr. Narayana Aiyars complaint seems to be that the remedy provided is very cheap. If that is the only complaint that is a matter for laudation and congratulation. Now Sir, the real fact is, if the application does not contain all the provisions the conciliating officer will take necessary steps..... ... ...

Mr. G. Narayana Aiyar : May I know whether there is any provision for it ?

Mr. Kayalam Paramesvaran Pillai : Clause 7(1) says that " On receipt of an application under Section 4, the Board shall pass an order fixing a date and place for hearing the application." In Clause 20 also it is stated that an application under Section 4 may be dismissed by the Board at any stage of the proceedings.

Mr. G. Narayana Aiyar : Sir, that provision comes only at a later stage.

Mr. Kayalam Paramesvaran Pillai : Sir, what I was saying is that there is ample provision in the Bill.

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The amendment was put to the vote of the House and lost.

The question that Clause 8 do stand part of the Bill was put and carried.

Clause 8 was added to the Bill.

Clause 9.

The question that Clause 9 do stand part of the Bill was then put and carried. Clause 9 was added to the Bill.

Clause 10.

Mr. G. Narayana Aiyar: Sir, I beg to move that in Clause 10 sub-clause (2), the following proviso be added :

"Provided also that the Board shall not re-open settled accounts or settled transactions for ascertaining the existence or amount of the debt due to any creditor except in the manner provided by Section 14."

The Clause as it stands——

Mr. M. N. Paramesvaran Pillai: Sir, on a point of order. The honourable member has sent up another amendment to this Clause. He says "delete Clause 14." It is better that we take Clause 14 first and see the fate of it. If that is deleted this amendment cannot be considered.

President: There is a point in that. The honourable member says "except in the manner provided by Section 14." If Clause 14 is deleted this may not arise. I will not put this Clause now. Now Clause 11.

Clause 11.

Mr. G. Narayana Aiyar: I don't move the amendment to delete the Clause.

The question that Clause 11 do stand part of the Bill was put vote and carried, and the Clause was added to the Bill.

Clause 12.

President: Clause 12.

Mr. G. Narayana Aiyar: I don't move the amendment to delete the Clause.

The question that Clause 12 do stand part of the Bill was put to vote and carried, and the Clause was added to the Bill.

Clause 13.

President: Clause 13.

Mr. G. Narayana Aiyar: I don't move the amendment to delete the Clause.

The question that Clause 13 do stand part of the Bill was put to vote and carried, and the Clause was added to the Bill.

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Clause 14.

President: Now Clause 14.

Mr. G. Narayana Aiyar: I move that Clause 14 be deleted. It says

> "If, in the opinion of the Board, there are reasonable grounds to suspect inequity in any transaction, such as, for example, that it is tainted by fraud, misrepresentation, undue influence, coercion, mistake of fact or collusion, the Board shall, in proposing and making the conciliation, go into the history of the transaction and may, in view of such history, reduce or disallow interest or even scale down the principal.
>
> *Explanation.* Nothing in this Section is intended to prohibit any disallowance of any claim on the ground that the transaction concerned is vitiated by fraud, misrepresentation, undue influence coercion, mistake of fact or collusion and is therefore invalid in law."

In view of the enquiry before the Board which is not as exhaustive as in the civil court and the fact that a good deal of legal questions arise, I submit, it will be highly inequitable to give the Board such powers. The Conciliation Officer should not have a discretion to go into all these questions, when we know that the status of the officer has not been declared by Government to be a very high one. These questions could be dealt with only by men of high status who have a thorough knowledge of law and all the intricacies connected therewith. As such, the Conciliation Officer should not be given such powers. Suppose a transaction lasted for twenty years and more and the parties renewed the contracts on several occasions and voluntarily paid amounts, the whole thing could be reopened under the provisions of this Clause. That is unfair and hard. No limit seems to have been prescribed for the reopening of the past transactions. If a wide discretion is given to the Conciliation Officer he can unsettle every thing. I submit that this is quite ridiculous.

Mr. Kayalam Paramesvaran Pillai: Sir, I oppose the amendment. As has been stated very often in my speech on the motion for consideration, conciliation is not binding on anybody unless he agrees to it and unless every one who is interested in the conciliation agrees to it. That being so, this Clause will not do any harm. The object is to ensure that the Board should look into this matter and not shirk it.

Mr. M. N. Paramesvaran Pillai: May I know whether decrees will be considered under this Section?

Mr. Kayalam Paramesvaran Pillai: No, in regard to decrees there is another provision.

Mr. M. N. Paramesvaran Pillai: My question is, if the debtor is able to show that the decree is tainted by fraud, can that decree be reopened?

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Mr. Kayalam Paramesvaran Pillai: I can only say that it is not intended by me. The word "transaction" may not perhaps include a decree. Anyhow I do not intend it.

The motion that Clause 14 be deleted was put to vote and lost.

The question that Clause 14 do stand part of the Bill was put to vote and carried. The Clause was added to the Bill.

Clause 10.

President: We now go back to Clause 10.

Mr. G. Narayana Aiyar:

"In Clause 10, sub-clause (2), add another proviso "Provided also that the Board shall not reopen settled accounts or settled transactions for ascertaining the existence or amount of the debt due to any creditor except in the manner provided by Section 14."

Herein also there appears to be no limit to the date from which the transactions are to be reopened. Supposing a transaction was running for 25 years The original loan was a simple amount but subsequently the amount might have become a very large one. If you ask anybody to go into the history of the whole transaction, most probably the creditor may not get his amount. There ought to be certain limits beyond which it cannot be allowed to reopen if the parties agree. If the debtor takes into his head to tease the creditor and reopen the transactions, how can future transactions be maintained. Such a ridiculous position I submit can never be imagined and it will be a source of trouble. This intricate question of law has to be gone into before a Conciliation Officer who has got unlimited powers, and no right of appeal is allowed. If the debtor is an influential man he can thwart the rights of the creditor. Such a provision should not be found in any recognised law. I submit that this amendment may be allowed.

Mr. Kayalam Paramesvaran Pillai: Sir, I oppose the amendment. Sir, I am tired of saying ever so many times that conciliation cannot take effect unless all the parties agree to it. If that is so, what is the objection here? It is not going to affect them.

Mr. G. Narayana Aiyar: Supposing the creditor appears before the officer and agrees to the conciliation and later on if he suspects the decision of the officer ——

Mr. Kayalam Paramesvaran Pillai: Conciliation as I said is not arbitration. The stage at which they will be asked to give their consent is when the arbitrator makes the final proposal. If they agree then it will be conciliation. If they do not it will be nothing.

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President : The motion before the House is, in Clause 10 sub-clause (2), add another proviso

"Provided also that the Board shall not reopen settled accounts or settled transations forascertaining the existence or amount of the debt due to any creditor except in the manner provided by Section 14."

The motion was put to vote and lost.

The question that Clause 10 stand part of the Bill was then put and carried, and Clause 10 was added to the Bill.

Clause 15.

President : Clause 15.

The following amendment was not moved :

MR. G. NARAYANA AIYAR :

47. Delete Clause 15.

Mr. G. Narayana Aiyar : Sir, I move only amendment 48 in Clause 15, *viz.*,

"In Clause 15, sub-clause (1) (*b*) after "say one-fourth" add "or one eighth." and after "the assets of the debtor" add "the value of which shall in no case exceed rupees five thousand."

Sir, a reference to the provisions of this Clause will show that it is one-sided. Here the Clause specifically says "give him one-fourth." It cannot be said, when a certain term is inserted in a legislation that it has no meaning or that it is only an example. It cannot be said that the presence of the term is only by way of an explanation. When a single syllable is inserted in the legislation it is full of meaning. The Conciliation Officers cannot go behind that. I can understand if it is said "one-fourth or one-fifth" or "property sufficient to maintain the debtor." The debtor ought to be provided with something, and can one-fourth be the proper limit ? If it has been said that any reasonable amount of his assets may be given to him and the balance left to the creditor I could have understood it. This specific statement in the Bill means that courts are bound by it. This is a real hardship to the creditor. This is a very anomalous position and this should not find a place in any civilised legislation. In certain cases it may so happen that the debtor will get a decent provision whereas the poor creditor may be put to serious difficulties and loss. I submit that the amendment may be allowed.

Mr. Kayalam Paramesvaran Pillai : Sir, I oppose the amendment. "One-fourth" is put in as an illustration. It may be one-fourth or one upon one hundred, nobody need object. But even as it stands it is not open to any doubt.

Mr. M. N. Paramesvaran Pillai : May I know whether it is not left to the discretion of the Board to decide ?

Mr. Kayalam Paramesvaran Pillai : Yes.

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Mr. M. N. Paramesvaran Pillai: Suppose the Board settles as per Clause (*b*) and if the Conciliation Officer decides that one-fourth be given to the debtor free he should take it. Is that the idea?

Mr. Kayalam Paramesvaran Pillai: Whenever a difficulty arises apply the test I have given. Conciliation will take effect only if all the parties agree to it. That is the master solvent.

Mr M. N. Paramesvaran Pillai: Are there not more points than the point of agreement?

Mr. Kayalam Paramesvaran Pillai: I say this only as an illustration. If any difficulty arises the party need not agree to it.

Mr. G. Narayana Aiyar: I am glad to find that it is admitted by the Law Member that there is no difficulty to modify it. At least Government will come in with a suitable amendment since the provision, as it is, is misleading.

[At this stage it was 3-30 P. M. and the House proceeded to the discussion of the adjournment motion *re* the grievances of the landholders in Nanjinad arising out of the order of the Government denying full remission of land tax including water cess in respect of lands left fallow during the Kanni crop of 1111].

ADJOURNMENT MOTION.

Mr. V. S. Arumukham Pillai: Sir, I wanted to move the adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance, *viz.*, the grievances of the landholders in Nanjinad arising out of the recent order of the Government denying full remission of land tax including water cess in respect of lands left fallow during the Kanni crop of 1111.

Sir, my object in tabling the motion is to draw the attention of the Government to the grave injustice that has been done to the landholders of Nanjinad by the order of Government in refusing and denying remission of land tax including water cess for the lands that could not be cultivated on account of the failure and non-supply of water. My object is only to draw the attention of the Government to the serious injustice and request Government to *reconsider* the whole matter and revise the order already passed. If the Government can assure me that the matter may be reconsidered and that justice will be meted out to the landholders in this matter, I do not mean to move the motion. If the Dewan-President will be pleased to assure that the whole question will be reconsidered and justice meted out to the unfortunate landholders of Nanjinad who could not cultivate their lands on account of the extreme drought

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[Mr. V. S. Arumukham Pillai.]

during the whole years of 1110 and 1111, if the Dewan-President will assure me that Government will go through the whole question and reconsider the matter, I will not move the motion.

President: I do not wish that the honourable member who has given notice of the motion for adjournment should be in any false position or that the Government should be deemed to have given any definite promise or any hopes which may not fructify to the satisfaction of the honourable member. But this the Government will undertake to do, *viz.*, that they will go into the matter very carefully and endeavour to deal with the situation in the best of its light. They will consider the whole question *de novo* very carefully.

Mr. V. S. Arumukham Pillai: In view of the Dewan-President's assurance that the whole question will be reconsidered carefully I do not press the motion.

President: Now we may proceed with the amendments to the Agriculturists Relief Bill.

Mr. M. N. Paramesvaran Pillai: Sir, I rise to a point of order. Under Rule 23 (1) on page 76 of the Travancore Sri Chitra State Council Manual, on a motion to adjourn for the purpose of discussing a matter of urgent public importance, the only question that may be put shall be that the Council do now adjourn, provided that, if the debate is not concluded earlier, it shall automatically terminate at the end of two hours, and there after no question shall be put. Therefore, Sir, is it in order to proceed with any further discussion?

President: There is no motion at all before the House. The motion for adjournment was not moved. It was not also seconded. The motion was merely mentioned. Because 3.30 P. M. had been indicated as the time fixed for the adjournment of the motion he got up in his seat. He did not propose to move it.

Mr. M. N. Paramesvaran Pillai: The motion need not necessarily be seconded, Sir.

President: No. But he himself said that he does not move it nor had he any desire to move. It was never moved and brought before the House in any particular form.

THE TRAVANCORE AGRICULTURISTS RELIEF BILL—(*contd.*)

Clause 15 (*contd.*)

President: The amendment before the House is No. 48 under Clause 15 to be moved by Mr. Narayana Aiyar.

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Mr. M. N. Paramesvaran Pillai: I rise to another point of order, Sir. This is a non-official business that has been taken up at 3.30 P M After that is it permissible to discuss any official business?

President: Under what provision of the law does the honourable member raise his point of order?

Mr. M. N. Paramesvaran Pillai: Under the same rule.

President: No, provided that the motion was moved. The motion was not moved.

Now the motion before the House is that "In Clause 15, sub-clause (1) (*b*) after "say one-fourth" add "or one eighth" and after "the assets of the debtor", add "the value of which shall in no case exceed rupees five thousand".

The amendment was put to the vote of the House and lost.

Mr. G Narayana Aiyar: I move that,

In Clause 15, sub-clause, (1) (*c*), line 2, after the world 'years' omit 'to be fixed by the Board' and insert 'not exceeding six'.

We find that in the earlier Clauses a maximum period is fixed for the debtor to pay up his debts and to safeguard him by giving him 12 years and allowing him to pay in 24 instalments. Here the Conciliation Officer is given unlimited powers. in regard to the number of years to be fixed it is entirely left to his sweet will and pleasure. Everything is left to his discretion. And his discretion cannot be challenged. Unless provision is made to control his discretion it would be too hard. Therefore I submit that my amendment may be allowed which aims only at fixing a time limit.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. The various provisions laid down under Clause 15 are merely illustrative of the conciliation proposals that may be made by the Conciliation Officer. These proposals or any other proposals may be made by him with regard to the circumstances of the case and above all it is only a safety valve and this arises only if the parties do not agree.

President: The motion before the House is amendment No. 49 moved by Mr. Narayana Aiyar, *viz.*,

In clause 15 sub clause (1) (c), line 2, after the word 'years' omit 'to be fixed by the Board' and insert 'not excluding six'.

The amendment was put to the vote of the House and lost.

Mr. G. Narayana Aiyar: I beg to move the following amendment:—

Add the following as sub-clause (3) to Clause 15.

"The appropriation and distribution shall be in the following manner:—

(a) First in the discharge of secured debts in their order of priority;

(b) secondly the balance towards the discharge of unsecured debts rateably to the extent of the debts".

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[Mr. G. Narayana Aiyar.]

The manner of appropriation seems to be mentioned in Section 15. The specific manner in which it ought to be appropriated is not stated there in full. I have heard the Law Member saying that these are only illustrations and can be considered by the Conciliation Officers. If this is the position assumed where is the necssity for the various Clauses? Why should we have a certain set of rules and regulations? This Clause is necessary in order to direct the Board which debts are to be cleared in the order of priority. It is highly necessary that the legislature should not frame laws in such a manner that it may be construed in various ways by anybody at his sweet will and pleasure. It ought to give specific instructions. No such thing is given here and everything depends upon the sweet will and pleasure of the Conciliation Officer. I submit that the amendment may be allowed.

Mr. M. N. Paramesvaran Pillai: Especially when you have got the provision in Clause 33 to revise the number of instalments.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment, Sir. There is no question of the appropriation of property. We have only laid down certain examples regarding the manner in which conciliation proposals should be made It is open to the contracting parties either to accept or reject them. At the last stage when the conciliation proposals are finally made by the Conciliation Officer and placed before the parties and they are called upon to say whether they accept the proposals or not they may accept them or reject them. No hardships will come to anybody on account of this.

President: The motion before the House is:

Add the following as sub-clause (3) to Clause 15:—

"The appropriation and distribution shall be in the following manner:—

"(*a*) First in the discharge of secured debts in their order of priority;

(*b*) Secondly the balance towards the discharge of unsecured debts rateably to the extent of the debts".

The amendment was to put to the vote and declared lost.

President: The question before the House is that Clause 15 do stand part of the Bill.

The motion was carried and Clause 15 was added as part of the Bill.

Clause 16.

Amendment No. 52 to omit the Clause was not moved.

Mr. G. Narayana Aiyar: I beg to move the following amendment No. 53:

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"In Clause 16, add as sub-clause (4) "Notwithstanding anything contained in sub-sections (1) to (3) a conciliation agreement to which a secured creditor does not expressly agree by signing the agreement, shall not affect his rights to proceed against the secured property".

This is only an anticipatory Clause. Since the whole Bill is not explicit in the matter it is highly necessary to protect secured debts. In view of this protection I submit that this provision as a saving Clause be inserted and the amendment allowed.

Mr. Kayalam Paramesvaran Pillai: I oppose it.

President: The motion before the House is as follows :—

In Clause 16, add as sub-clause (4) :

"Not-with-standing anything contained in sub-sections (1) to (3) a conciliation agreement to which a secured creditor does not expressly agree by signing the agreement, shall not affect his rights to proceed against the secured property".

The amendment was put to the vote and declared lost. The following amendment No. 54 was not moved :—

Mr. G. Narayana Aiyar: After Clause 16 add as a new Clause :

"The State Land Mortgage Bank shall, subject to the rules governing the said bank, pay to the creditor or creditors the amounts due to them under conciliation agreements registered under Section 16'.

President: The question before the House is that Clause 16 do stand part of the Bill.

The motion was carried and Clause 16 was added to the Bill.

Clause 17.

The question that Clause 17 stand part of the Bill was put and carried. The Clause was added to the Bill.

Clause 18.

Mr. G. Narayana Aiyar: Sir, I move that in Clause 18, line 7, after " the deposit so made in such time " add " with interest thereon at 6 per cent per annum from the date of the certificate ".

Even after the scaling down of the amount, there is no liability to pay interest. This is only to provide for the payment of such interest at the rate of 6 per cent from the date of the certificate.

Mr. S. Piraviperumal Pillai: I second it.

Mr. Kayalam Paramesvaran Pillai: Sir, I oppose the amendment. After all it is only a minor point.

The amendment was put to the vote of the House and lost.

The question that Clause 18 stand part of the Bill was then put and carried, and Clause 18 was added to the Bill.

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Clause 19.

Mr. G. Narayana Aiyar : Sir, I move –

In Clause 19 line 6, omit the portion after "case may be" and substitute "if the debtor deposits in court for payment to the creditor on or before the first hearing of the suit or the application as the case may be, the full amount fixed by the Board as a fair amount for cash payment and the interest thereon at 6 per cent per annum from the date of the certificate."

All similar legislations in British India, Cochin, Mysore etc. contain such a provision The Section says :—

"if the creditor institutes a suit or makes an application in any civil courts such courts, having regard to the certificate and the conduct of the parties in connection therewith, may, in its discretion, disallow in whole or part the costs of the suit or of the application, as the case may be and may also, in its discretion reduce the amount of the interest remaining due for the period from and after 1st Chingam 1105 up to the date of the decree or order....."

There is absolutely no reason to compel him to forego interest from 1105. If he ignores the certificate and goes to court, penalise him for the cost. This provision does not find a place in any other Bill.

Mr. S. Piraviperumal Pillai: I second it.

Mr. Kayalam Paramesvaran Pillai : Sir, I oppose it. I have explained this portion in my speech.

The amendment was put to the vote of the House and lost.

The question that Clause 19 stand part of the Bill was put and carried.

The Clause was added to the Bill.

Clauses 20—22.

The question that Clauses 20—22 do stand part of the Bill was put and carried, and the Clauses were added to the Bill.

Clause 23.

Mr. G. Narayana Aiyar : Sir, I move the following amendment—

Substitute for Clause 23 "the High Court shall have powers to revise every order passed by the Board."

Sir, it will be seen that very high powers are given to the Conciliation Officers. In practice we find that voluntary consent would dwindle down to nothing. The provision that the High Court shall have power to revise his decision will be sufficient incentive to the officer to proceed correctly, for if he does not do so, his act will be questioned. So, this power should be given to the High Court so that the powers given to the officers are not misused. In the Mysore Act the conciliatory powers and duties are vested in the civil courts and there is provision for revision etc. Hence I submit that this amendment may be allowed by this House.

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Mr. M. N. Paramesvaran Pillai : Sir, I support the amendment. I would invite the attention of this House to Clause 23 which reads thus :—"No appeal or application for revision shall lie to any court against any order passed by the Board." This Clause makes the powers of the Board absolute and they cannot be questioned by any other authority. The next Clause viz., Clause 24 further lays down that "the decision by a Board that a person is or is not an agriculturist shall be conclusive for all the purposes of the Board and for the purposes of all proceedings arising out of any conciliation or certificate recorded by the Board." Thus, so far as the Board is concerned, its powers are unrestricted and cannot be interfered with by any revisional authority. The decision of a Board is always final. In the civil courts in the land, the Law Member does not seem to have as much confidence as he professes to have in the proposed Conciliation Boards. If the personnel of the Board is not satisfactory, there is every chance for corruption. The decision of the Village Panchayat Courts can be assailed in revision before the District Court under Section 73 of the Village Panchayat Courts Regulation, if there is illegality, material irregularity or corruption. Even such a provision does not find a place in this Bill. These are days when people refuse to have that amount of confidence which they should ordinarily have even in the highest court in the land. It is, therefore, dangerous and unsafe to leave such wide and unrestricted powers to a Board of this type. Public interest demands that the Board should not be armed with such extraordinary powers, powers which even the highest court in the land does not possess at present. I, therefore, legitimately hope that this amendment would receive the hearty support of every honourable member of this House.

Mr. S. Piraviperumal Pillai Sir, in the Bill there is a provision that if, in the opinion of the Board, there are reasonable grounds to suspect inequity in any transaction, the Board shall, in proposing and making the conciliation, go into the history of the transaction and may in view of such history reduce or disallow interest or even scale down the principal. That, in other words, means that the Board is given powers to revise the orders passed by the High Court. I submit Sir, that there should be no power to the Board to revise the final orders of the highest court of the country. I therefore support the amendment.

Mr. Kayalam Paramesvaran Pillai : Sir, I oppose the motion. The motion is based on a thorough misconception of the provisions of the Bill. Two kinds of orders may be passed by the Board. One is a conciliation proposal which is accepted and there upon becomes a decree. Another is, if the parties do not accept the

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[Mr. Kayalam Paramesvaran Pillai.]

conciliation the Board may make a certificate. In regard to the accepted conciliation, there need be no anxiety, for that is a thing that has been accepted. Against what is accepted where is the room for a revision by the High Court.

Mr. M. N. Paramesvaran Pillai: Suppose the Conciliation Board interferes under Section 14. What is the remedy?

Mr. Kayalam Paramesvaran Pillai: Again, apply the test that all the parties must agree; otherwise it will not become effective.

Mr. M. N. Paramesvaran Pillai: Cannot the Board pass a certificate?

Mr. Kayalam Paramesvaran Pillai: Yes. But then what is the consequence? The court may thereupon disallow costs or reduce interest in its decree. There would be an appeal against the decision. And against the appellate decision there may be a further appeal. When there is this right of appeal to the High Court, why do you want a revision to the High Court?

The motion was put to vote and lost.

Mr. M. N. Paramesvaran Pillai: I demand a poll.

A poll was taken and the House divided as follows :—

AYES.

1. Mr. G. Narayana Aiyar	3. Mr. S. Piraviperumal Pillai
2. ,, M. N. Paramesvaran Pillai	4. ,, K. N. Kesavan Nambutiripad

NOES.

1 Mr. V. S. Arumukham Pillai	13 ,, E. P. Varghese
2 ,, Kochikkal P. Balakrishnan Tampi	14 ,, A. N. Visvanatha Pillai
3 ,, M. Govindan	15 ,, Rao Bahadur Rajyasevaniratha Dr. N. Kunjan Pillai
4 ,, John Kattakayam	
5 ,, C. M. Joseph	16 ,, K. Madhava Kurup
6 ,, Eric Hall	17 ,, K. Parameswara Panikkar
7 ,, H. O. L. Marikar	18 ,, Rao Bahadur A Rengasvami Aiyar
8 ,, K. P. Nilakanta Pillai	
9 ,, N. K. Padmanabha Pillai	19 ,, James Simpson
10 ,, N. Ramakrishna Pillai	20 ,, C. V. Chandrasekharan
11 ,, K. Sankaralingam Pillai	21 ,, K. George
12 ,, Komilezhathu Sankaran	22 ,, Kayalam Paramesvaran Pillai

NEUTRALS.

1 Mr. K. Padmanabha Panikkar	2 Mr. Syed M. Bava

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The amendment was declared lost, 4 voting for, 22 against, and 2 remaining neutral.

The question that Clause 23 stand part of the Bill was pu and carried and the Clause was added to the Bill.

Clauses 24-32.

The question that Clauses 24—32 do stand part of the Bill was put and carried, and the Clauses were added to the Bill.

Clause 33.

Mr. M. N. Paramesvaran Pillai: May I know whether I have the leave of the Chair to move the various Clauses separately?

Mr. K. P. Nilakanta Pillai: This amendment (No. 79) also has been ruled out of order.

Mr. M. N. Paramesvaran Pillai: It is only my first amendment for the substitution of the word "debtor" for the term "agriculturist" that has been ruled out. Sir, I do not think that the other amendments of mine could be ruled out before they are actually moved. A ruling could not have been given in anticipation of what I was intending to do.

Mr. Kayalam Paramesvaran Pillai: The Chair ruled that this amendment was a consequential amendment to the first three amendments in the printed list of amendments, and therefore ruled out this also. If Mr. Parameswaran Pillai had anything to say, he ought to have said it when the Chair gave the ruling. He was keeping quiet. The ruling specifically included amendment No. 79 also.

Mr. M. N. Paramesvaran Pillai: Sir, if that is the case, I request you to hear me and reconsider the position and give a revised ruling.

President: The ruling was given, in my absence, by one of the Panel of Chairmen. I am afraid I cannot overrule the ruling given by the Chairman.

Mr. M. N. Paramesvaran Pillai: My request is that, in the light of what I have stated, the ruling may be revised. It need not be overruled. There has been more than one precedent for doing so.

President: I am told that this amendment No. 79, was definitely mentioned in the ruling given by the Chair. The Chair seems to have said that amendments Nos 1, 2, 3, and 79 were out of order. I think I am bound by that ruling.

The question that Clause do stand part of the Bill was put to vote and carried.

The Clause was added to the Bill.

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Clause 34.

Mr. G. Narayana Aiyar: I beg to move the following amendment :—

In Clause 34, for "Notwithstanding anything in any law, contract, decree or order of court, no interest shall accrue, or be permitted to be recovered as accruing" substitute "no Court shall, by its decree or order, allow interest to be recovered".

Sir, the provision relates to future transactions. It says that no interest shall accrue or be permitted to accrue beyond 6 per cent. per annum. The effect would be that, even after paying interest at the contract rate, the debtor may turn round and sue the creditor under this provision for the refund of the interest above 6 per cent. Sir, what Section 31 of the Civil Procedure Code now provides is, not that interest above 12 per cent. per annum should not be paid in any case, but that if the creditor seeks the aid of the court to realise his dues, the court should not give a decree for anything more than 12 per cent. interest. But that is not what is provided here. The provision in the Bill says that interest at more than 6 per cent. shall not *accrue*; not that it shall not be decreed by a court of law. I can understand a provision that the court shall not enforce a claim for more than 6 per cent. interest. But, why should the law stand in the way of a debtor who, out of his own free will, pays a higher rate of interest? Sir, a person may pledge his jewel and borrow money. At the end of the stipulated period, after repaying the principal together with interest at the contract rate, after the whole transaction is over, he can, under this mischievous provision, reopen the whole matter and sue for the excess of interest, above 6 per cent., which he has actually paid. This provision gives room for unnecessary litigation. Such a provision is unknown to all systems of jurisprudence. The court can interfere and control the rate of interest if its aid is invoked; but if the parties agree among themselves and do not, at any stage, require the aid of the court, why should the law step in and reduce the rate of interest? I therefore submit that this mischievous provision has to be amended.

Mr. Kayalam Paramesvaran Pillai: I oppose the amendment. It is based, to a great extent, on a misconception. The honourable member seems to think that the Clause provides for the refunding of interest already recovered by the creditor. It does not provide like that. The Clause operates only for the future. It has no retrospective operation. It says that, after the date of the commencement of this Regulation, interest at more than 6 per cent. shall not accrue.

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Mr. G. Narayana Aiyar: After the commencement of this Regulation, if a creditor had received more than 6 per cent does not this provision enable the debtor to recover such excess above 6 per cent.?

Mr. Kayalam Paramesvaran Pillai: Perhaps it is a gift. A gift is quite permissible; this Clause does not go against that.

Mr. M. N. Paramesvaran Pillai: Has the Law Member any idea of repealing Section 31 of the Civil Procedure Code which now guarantees a particular rate of interest?

Mr. Kayalam Paramesvaran Pillai: I have none at present. All my present proposals are on the table.

The amendment was put to vote and lost.

Mr. E. P. Varghese Sir I beg to move the following amendment:—

> Add after the words "as accruing" the following "from and after the 1st of Chingam 1105 up to the termination", and delete the words "for a period".

Sir, I am not unaware of the fact that this provision has been the bone of contention during the second reading of the Bill in the lower House. But, this is the only way to afford a substantial relief to the agriculturist. Sir, after all, my amendment seeks to reduce the rate of interest from 1105. There are provisions to reduce even the principal. This is therefore only a very modest proposal, comparatively. When we legislate for the period of depression, it is only fair that the measures of relief take effect from the day on which the depression set in.

Sir, I would draw pointed attention to the Proviso I have proposed to introduce to the effect that interest already paid need not be taken into account, so that, strictly speaking, there would be no expropriation in the provision as I seek to amend it. It is only the unpaid interest that I want to be limited to 6 per cent.

Sir, I do not want to take up the time of the House, on this provision, since it has been discussed at length under the motion for the Bill being taken up for consideration. I appeal to this House to support this amendment.

Mr. M. N. Paramesvaran Pillai: I have very great pleasure in supporting this amendment. Such a provision alone can now really benefit the suffering debtors. Owing to the fall in the price of agricultural products and the operation of the law of diminishing returns the agriculturists are not able to get any margin of profit to pay off the debts or even the interest thereon

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[Mr. M. N. Parameswaran Pillai.]

When that is the universal position, no debtor is going to derive any benefit if reduction in the rate of interest on past transactions is not made.

Sir, the main argument advanced by the Law Member against such a provision is that it is highly expropriatory. There can be no force in such a contention. When every other provision in this Bill is expropriatory, is there any logic in such an objection? Are not the provisions of Clause 14 which give the Conciliation Board power to reopen past transactions, reduce or disallow interest or even scale down the principal, expropriatory in nature and in effect? What about the provisions of Clause 15 (*b*) under which the Board is given power to leave one fourth of the assets of the debtor free from all liability from his debts? These and the provisions relating to exemption from arrest and the absence of the provision recognising the right of priority of the secured creditors over the unsecured creditors are really nothing but expropriation, "unrepentant unalloyed and unabashed." In other Regulations also we have similar expropriatory provisions. Section 31 of the Civil Procedure Code is an instance of the kind. Both at the time of the discussion of the report of the Agricultural Debt Redemption Committee and in the speech delivered by me in opposition to the introduction of this Bill in this form, I had pointed out that the provisions of Section 31 of the Civil Procedure Code of 1100 relating to interest have been the cause of the ruin of many a debtor in the country. Formerly according to Section 17 Clause (5) of Regulation 1 of 1010, no court could decree, on account of interest, a sum exceeding one half of the principal, if the claim be for money, for the period up to the date of decree and under Section 21 of Regulation IV of 1010 even after decree interest can be charged only on the principal and that too only up to half the value of the principal. These Sections have also received judicial interpretation in 36 T. L. R. 146. But Section 31 of the present Regulation, VIII of 1100, makes it possible for a creditor to realise over and above interest up to half the principal before the date of suit, any amount as further interest on the principal sum from the date of suit to the date of decree and a still further amount at 9 per cent. per annum on the aggregate sum up to the aggregate. As the Section now stands, a person who borrows Rs. 100 will have to pay several times that amount under the decree that may be passed against him. Sir, the Agricultural Debt Redemption Committee has reported that the burden of agricultural debt is mainly the burden of accumulated interest. It is admitted that the present is an extraordinary situation and extraordinary situations require extraordinary remedies as well. And in such cases, we

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should not hesitate to give retrospective effect to a legislation. The amendment now moved by Mr. E. P. Varghese is one of the most useful amendments that can be thought of. I hope it will, therefore, receive the hearty support of this House.

Mr. Kayalam Paramesvaran Pillai: I oppose this amendment. The amendment is objectionable because, for one thing, it takes away a property that has accrued to a person. The House is aware that on this provision there are two contending parties and there has been great excitement over it. I trust the House will consider the question very seriously. I know that there is a view that some real relief can be had only if some reduction in the past interest is made. But it will be conceded that such a reduction could be rightly made only in the case of a man who is not able to pay his debts. In regard to the man who is unable to pay there is a provision already in Clause 19 for the reduction of past interest. The only thing that he has to do is to appear before the Conciliation Board and satisfy it. The creditor may or may not care to appear before the Conciliation Board. If he does not appear, a certificate will be issued and that may be produced before a court of law which may grant the reduction of interest. The only thing for a man who is not able to pay his debts is to go before the Conciliation Board and prove his inability. But should we extend the the same sympathy to the man who does not care to go to the Conciliation Board? That refusal to go to the Board would mean that he is able to discharge his debts. To him we should not extend this sort of relief. I trust that the House wants to pass this Bill as early as possible so that it may be brought at once into operation. If by the operation of the law in its present form any drawback is noticed, then that can be remedied by suitable amendments. Now let us pass this Bill as it is.

President: The amendment before the House is—

Add after the words "as accruing" the following :
"From and after the last of Chingam 1105 up to the termination", and delete the words "for a period".

The motion was put to vote and lost.

Mr. M. N. Paramesvaran Pillai: I demand a poll.

A poll was taken and the House divided as follows :—

AYES—8.

1	Mr. N. K. Padmanabha Pillai	5	Mr. Kochikal P. Balakrishnan Tampi
2	,, M. N. Paramesvaran Pillai	6	,, Komilezhathu Sankaran
3	,, S. Piraviperumal Pillai	7	,, A. N. Visvanatha Pillai
4	,, V. S. Arumukham Pillai	8	,, E. P. Varghese

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NOES—22.

1	Mr. K. Padmanabha Panikkar	13	Rao Bahadur Rajyaseva-niratha Dr. N. Kunjan Pillai
2	,, P. Padmanabhan Tampi	14	Mr K. R. Narayana Aiyar
3	,, G. Narayana Aiyar	15	,, Kayalam Parameswaran Pillai
4	,, H. O. L. Maraikar	16	,, K George
5	,, M. P. Madhavan Pillai	17	,, James Simpson
6	,, C. M. Joseph	18	,, C. O. Madhavan
7	,, J. John Kattakayam	19	,, C. V. Chandrasekharan
8	,, M. Govindan	20	,, K. N. Kesavan Namputiripad
9	,, K. Rama Varma Raja	21	,, Eric Hall
10	,, K. Madhava Kurup	22	,, Syed M. Bava
11	,, K. Parameswara Panikkar		
12	Rao Bahadur A. Rengasvami Aiyar		

NEUTRALS—3.

1	Mr. K. P. Nilakanta Pillai	3	Mr. K. Sankaralingam Pillai
2	,, N. Ramakrishna Pillai		

The amendment was declared lost, 8 voting for and 22 against, 3 remaining neutral.

The question that Clause 34 do stand part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 35.

Mr. G. Narayana Aiyar: On the same reasons I have advanced already in connection with a previous amendment I submit that this amendment may be accepted, *viz.*, that.....

In Clause 35, for "notwithstanding anything in any law, contract, decree or order of court no interest shall accrue, or be permitted to be recovered as accruing" substitute "No court shall by its decree or order allow interest to be recovered".

Mr. S. Piraviperumal Pillai: Sir, I support the amendment.

Sir, if this amendment is accepted it will not materially affect the position of the agriculturists. All that the agriculturists want is that they should not be allowed to pay a higher rate of interest. But on the other hand if the Clause as it stands now is allowed to form part of the Bill it will work great hardship on the traders and merchants. As I have already said, merchants and traders are put to very great difficulty on the question of finance. If this Clause as it stands is also allowed to be passed they will be put to greater difficulties. If there is not such a Clause he will be able to obtain money at a higher rate of interest by mutual agreement. The trader when he feels that he can get a little more profit should be allowed

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to enter into an agreement with a money lender and pay an interest at more than 6 per cent., say 9 or 10 per cent. But this Bill as it stands now does not permit him to do that even if he agrees by mutual contract. This Bill prevents him from doing that. Now what is the result? The money lender will not be willing to give money so long as there is a provision like that So if these words are deleted and the words "No court shall by its decree or order allow interest to be recovered" is substituted it will not work any hardship on the agriculturists. Already the other provisions in the Bill will be working very great hardship on the trader. At the same time this amendment does not give any trouble to the agriculturists. If it in any way helps the trader and at the same time does not injure the agriculturists I do not know why the Law Member should have any objection to it. Therefore I submit that this House should kindly support this amendment.

Mr. Kayalam Parameswaran Pillai: Sir, I have already advanced my argument in opposition of this amendment when speaking on the amendment in regard to Clause 34. I have nothing to add.

President: The question before the House is that—

> In Clause 35, for "notwithstanding anything in any law, contract, decree or order of court no interest shall accrue, or be permitted to be recovered as accruing" substitute "No court shall by its decree or order allow interest to be recovered".

The amendment was put to vote and lost.

Mr. G. Narayana Aiyar: I beg to move—In Clause 35, add as Exception:

> "Exception—Nothing in this Section shall apply to debts not exceeding five hundred rupees in money or five hundred paras in paddy or grain".

The Bill prescribes a rate of 6 per cent on secured debts and 9 per cent. on unsecured debts. It should not be thought that I am for enhancing the rate of interest. Transactions must go on. It is not enough if we have some written law. It should not be an obstacle to the people. No limit has been fixed for the amount in respect of 6 per cent., and 9 per cent. interest could be claimed and agreed. If we want one rupee we have to pay only 6 per cent. interest; if we want in lakhs of rupees then also we have to pay 6 per cent. interest. What I say is that there should be some sort of minimum with regard to the amounts for which the rate of interest is fixed. The poor people may not get money for such low rate of interest. The consequence will be that the poor man will have to sell his properties for raising small loans. The agriculturists were receiving small sums as loan for carrying on cultivation. Now the provision of the Bill says that he need not pay more than 9 per cent. for unsecured debts. Who will be prepared to lend out small sums

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[Mr. G. Narayana Aiyar.]

of money at 9 per cent. interest? As was anticipated by another honourable member the agriculturists will have to neglect their cultivation and die of starvation. Therefore in the interest of every body it is highly necessary to fix a minimum amount over which the specified rates shall prevail. Therefore I pray that this Clause may be added.

Mr. Kayalam Paramesvaran Pillai: I oppose this amendment. The law at present allows 12 per cent. interest whether it be for one rupee or ten lakhs of rupees. I do not think that the suggested rate will work any hardship. Let us, as pointed out, however try this law. If it is going to work any unforeseen injury then we shall take steps to rectify it.

President: The motion before the House is—

In Clause 35, add as Exception:

"Exception—Nothing in this Section shall apply to debts not exceeding five hundred rupees in money or five hundred paras in paddy or grain".

The motion was put to vote and lost.

The question that Clause 35 stand part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 36.

The question that Clause 36 stand part of the Bill was then put and carried.

The Clause was added to the Bill.

Clause 37.

Mr. M. N. Paramesvaran Pillai: Sir, I move:

For Clause 37 in the Bill, substitute the following as Clause 37:

"In the Code of Civil Procedure, 1102—

After Section 48, the following Section shall be inserted, namely:—

48 A (i) Notwithstanding anything contained in any law decree or order of any court, no court shall order the arrest or detention in the civil prison of any debtor in execution of any decree for the payment of money if he has given security for the due discharge of his debt.

48 A (ii) In the case of debts not secured, the creditor shall not proceed against the debtor personally before he has exhausted his remedies against the unencumbered properties of the debtor"

Now the provisions embodied in Clause 37 are of no practical use. An enquiry under Clause 37 will itself fully engage the attention of the agriculturist so much so that he will have very little time to attend to his avocation, *viz.*, the improvement and cultivation of his lands. Further, the existence of a provision like the one contained in sub-clause (c) will nullify the object of this provision. Such a provision will give the creditor the opportunity to induce the debtor

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in all cases to state in writing that he is not an agriculturist. Under such circumstances how can these provisions be of any avail to the agriculturists? It is in view of all these circumstances that I have proposed these amendments. If my amendments are passed, hereafter debtors who have given security for their debts cannot be arrested and in the case of other debtors they can be proceeded against only if all the steps against their unencumbered properties are exhausted.

I do not understand why the learned Law Member has introduced these provisions in the Bill, except it be to complicate matters further. We have got similar provisions in Order 21, Rule 38 of the Civil Procedure Code. The only difference is that sub-clause (*c*) of Clause 37 makes matters worse. If the sub-clause is retained, what is attempted to be given by the right hand will be taken away by the left hand.

Mr. E. P. Varghese: Sir, I second the motion before the House. It is one of the salutary provisions contained in the amendment which go very much to help the indebted agriculturists and it does not do any harm to the creditor class. I think it is a beneficent provision and it is necessary that it should be incorporated in the Bill as it is. Moreover in one sense it is useful to the creditor also. If the debtor is at large he may be able to find money to pay back. Now-a-days the debtor is arrested and sent to prison at once and is not given the opportunity to give security or any guarantee to the creditor for the debt. If a person has no property at all even if he is put into prison the creditor will not be able to realise the cash. So, I second the amendment and commend it to the approval of this House.

Mr. Kayalam Paramesvaran Pillai: Sir, I oppose the motion. I quite agree with the sentiments expressed by Mr, Paramesvaran Pillai and Mr. Varghese. But I am astounded at the amendment they sponsor. I would ask the House to peruse carefully the Clause as it would be amended by this amendment and look at the effect of it. The effect is that if the debtor has no property he may be arrested. If he has property, security should be given and then he will be free from arrest. But suppose he has no property and he is a pauper. He must then be arrested. That is the effect of the proposition of Mr. Varghese.

Mr. M. N. Paramesvaran Pillai: Then may I know from the member why the debtor is asked to furnish security for the amount conciliated?

Mr. Kayalam Paramesvaran Pillai: If there is no property he need not furnish security. If he has got property only he need furnish security according to my Clause. Sir, the second portion of the Clause is ; "In the case of debts not secured the creditor shall not proceed against the debtor personally before he has

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[Mr. Kayalam Paramesvaran Pillai.]

exhausted his remedies against the unencumbered properties of the debtor". Sir, if this amendment is accepted it will cause a person to be arrested and put in prison merely because his properties even though proceeded against have not been sufficient to satisfy the debts.

Mr. M. N. Paramesvaran Pillai: In such a case is it not open to the creditor to give an insolvency petition ?

Mr. Kayalam Paramesvaran Pillai: Many things are open to him. He may, to escape this amendment, go even to the forest and get devoured by tigers.

Mr. M. N. Paramesvaran Pillai: Yes, he may even commit suicide.

Mr. Kayalam Paramesvaran Pillai: Yes, that will be the only salvation if this amendment is accepted. I little expected such an amendment from the honourable members.

The amendment was put to the vote of the House and lost.

The question that Clause 37 stand part of the Bill was put to the vote of the House and carried. The Clause was added to the Bill.

Clause 38.

Mr. M. N. Paramesvaran Pillai: May I point out, Sir, that the time fixed for this Bill is up ?

President: While, ordinarily the meeting is to begin at 11 o' clock and continue till 4-30 in the evening, I propose to give the direction that we go on until we finish this Bill.

The question that Clause 38 stand part of the Bill was then put to the vote of the House and carried.

Clause 38 was added to the Bill.

Preamble.

The question that the Preamble stand part of the Bill was put and carried.

The Preamble was added to the Bill.

Title.

The question that the Title stand part of the Bill was put and carried.

The Title was added to the Bill.

Mr. Kayalam Paramesvaran Pillai: Sir, I have now great pleasure in moving that the Bill be passed.

Mr. K. George: I second it.

Mr. M. N. Paramesvaran Pillai: On a point of order. The standing order says .....

President: The motion is in order.

The motion was carried and the Bill was passed.

The House adjourned at 4-40 P. M.

P. PARAMESVARAN PILLAI,
Secretary to the Sri Chitra State Council.

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